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

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2429

Miscellaneous and General Requirements

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: The Federal Labor Relations Authority (FLRA, or Authority) adopts an addition to its regulations. The additional regulation concerns the revocation of a written assignment of amounts deducted from the pay of a federal employee for the payment of regular and periodic dues allotted to an exclusive representative. Specifically, the regulation provides that, after the expiration of a one-year period during which an assignment may not be revoked, an employee may initiate the revocation of a previously authorized assignment at any time that the employee chooses. However, the additional regulation will not apply to the revocation of assignments that were authorized prior to the effective date of the regulation.

DATES:

Effective Date: This rule is effective August 10, 2020.

Applicability Date: This rule applies to the revocation of assignments that were authorized under 5 U.S.C. 7115(a) on or after August 10, 2020.

FOR FURTHER INFORMATION CONTACT: Noah Peters, Solicitor, at *npeters@flra.gov* or at (202) 218–7908.

SUPPLEMENTARY INFORMATION:

I. Background

On February 14, 2020, the Authority issued a general statement of policy or guidance in Case No. 0–PS–34, *Office of Personnel Management,* 71 FLRA 571 (*OPM*). The Authority explained that its longstanding interpretation of section 7115(a) of the Federal Service Labor-Management Relations Statute (the ''Statute'') was unsupported by the plain wording of that section. Specifically, the Authority had previously held that the wording in section 7115(a) that '' 'any such assignment may not be revoked for a period of [one] year' *must* be interpreted to mean that authorized dues allotments may be revoked only at intervals of [one] year.'' *U.S. Army, U.S. Army Materiel Dev. & Readiness Command, Warren, Mich.,* 7 FLRA 194, 199 (1981) (*Army*) (emphasis added) (quoting 5 U.S.C. 7115(a)).

Disagreeing with *Army,* the Authority in *OPM* explained that the ''most reasonable way to interpret the phrase 'any such assignment may not be revoked for a period of [one] year' is that the phrase governs only the first year of an assignment.'' 71 FLRA at 572 (quoting 5 U.S.C. 7115(a)). As the Authority observed, ''[e]xcept for the limiting conditions in section 7115(b), which section 7115(a) explicitly acknowledges, nothing in the text of section 7115(a) expressly addresses the revocation of dues assignments after the first year.'' *Id.* (footnote omitted).

In support of its criticism of the decision in *Army,* the Authority relied on section 7115(a)'s plain wording. *Id.* In particular, the section ''says that an 'assignment may not be revoked for a period of [one] year,' and such wording governs only one year because it refers to only '[one] year.' '' *Id.* (alterations in original) (quoting 5 U.S.C. 7115(a)). Further, the Authority explained why ''it would be nonsensical to conclude that the one-year period under [section] 7115(a) is not the first year of an assignment.'' *Id.* And because the section says that it limits revocations for ''*a* period of [one] year,'' the Authority recognized that ''it does not limit revocations for multiple periods of one year.'' *Id.* (alteration in original) (emphasis added).

Army based its interpretation of section 7115(a) almost exclusively on legislative history, but the Authority in *OPM* recognized that ''Congress's 'authoritative statement is the statutory text, not the legislative history . . . . Extrinsic materials have a role in statutory interpretation only to the extent they shed a reliable light on [Congress's] understanding of *otherwise ambiguous terms.*' '' *Id.* at 573 n.23 (emphasis added in *OPM*) (quoting *Exxon Mobil Corp.* v. *Allapattah Servs., Inc.,* 545 U.S. 546, 568 (2005)). Because the pertinent terms of section 7115(a) were not ambiguous, the Authority explained that resorting to legislative history as the basis for interpreting section 7115(a) would reflect ''poor statutory construction.'' *Id.* (citing *Ratzlaf* v. *United States,* 510 U.S. 135, 147–48 (1994)). Moreover, while the request for a general statement of policy or guidance asked the Authority to find that the First Amendment to the U.S. Constitution compelled a certain interpretation of section 7115(a), the majority decision rested exclusively on statutory exegesis, rather than principles of constitutional law. *Id.* at 573.

Although the Authority explained its reasons for rejecting the interpretation of section 7115(a) set forth in *Army,* the general statement did not adopt a new rule. Instead, the Authority explained that it ''intend[ed] to commence notice-and-comment rulemaking concerning section 7115(a), with the aim of adopting an implementing regulation that hews more closely to the Statute's text.'' *Id.* Anticipating its forthcoming rule proposal, the Authority expressed the view that ''it would assure employees the fullest freedom in the exercise of their rights under the Statute if, after the expiration of the initial one-year period during which an assignment may not be revoked under section 7115(a), an employee had the right to initiate the revocation of a previously authorized dues assignment at any time that the employee chooses.'' *Id.* However, the Authority also recognized that any rule would have to ''seek a reasonable balance between competing interests.'' *Id.*

On March 19, 2020, the Authority issued a proposed rule requesting comments, published at 85 FR 15742, to further the statutory reexamination that began in *OPM.* The Authority received, and has considered, written comments submitted in accordance with that proposed rule, and the Authority's responses to summaries of those comments appear below.

II. Summaries of Comments and Responses

Comment: The Authority's analysis in *OPM,* and in the explanation of the proposed rule, ignored the legislative history on which *Army* based its interpretation of section 7115(a), and also ignored the decades of decisional

precedent that adhered to *Army's* interpretation.

Response: The Authority is well aware of the legislative history on which *Army* relied. But for the reasons explained in *OPM,* relying on legislative history to alter the meaning of unambiguous statutory text is improper. Indeed, the U.S. Supreme Court has explained that we should ''not resort to legislative history to cloud a statutory text that is clear.'' *Ratzlaf,* 510 FLRA at 147–48. *Army* ignored that teaching. Moreover, the legislative history of section 7115(a) is not nearly as supportive of *Army's* interpretation as that decision suggested. *Army* began with the observation that dues deductions were revocable at six-month intervals under Executive Order 11,491. Then, examining congressional committee reports, *Army* concluded that the Statute was intended to provide greater union security than Executive Order 11,491, but not as much security as an ''agency shop.'' Finally, *Army* concluded that section 7115(a) ''must'' be interpreted to allow revocations only at one-year intervals. 7 FLRA at 199. The logical flaw in that reasoning is clear. Whereas Executive Order 11,491 stated explicitly that dues-deduction assignments must allow employees to ''revoke [an] authorization at stated six-month *intervals,*'' *Army, id.* at 196 (emphasis added), section 7115(a) of the Statute does not mention intervals *at all.* Rather, it mentions irrevocability for ''*a* period of [one] year.'' 5 U.S.C. 7115(a) (emphasis added). Nevertheless, based solely on perceived policy goals gleaned from legislative history, *Army* improperly grafted an interval-based revocation restriction onto the wording of section 7115(a). We reject that mode of statutory interpretation, and we reject the portions of other Authority decisions that followed *Army* in adhering to that flawed interpretive method.

Comment: The rule will increase administrative burdens in processing dues-assignment revocations.

Response: Although several union and employee commenters suggested that the rule would result in increased administrative burdens for agencies, none of the agencies that submitted comments agreed with that assessment. Indeed, the Department of Veterans Affairs, U.S. Department of Agriculture (USDA), Peace Corps, and Office of Personnel Management support adopting the rule, and USDA says specifically that it ''does not foresee any negative impacts of the implementation of the proposed rule on the [a]gency.'' USDA Comment (Apr. 9, 2020) at 1. Moreover, we are somewhat skeptical of the claims of increased administrative burdens on unions in processing dues-assignment revocations because, with the exception of the system negotiated by the National Treasury Employees Union, in all of the examples discussed in the comments, assignment-revocation windows depend entirely on the date that an individual employee first authorized the assignment, or when the authorized assignment first became effective. Thus, every employee's revocation window is uniquely dependent on the anniversary date of that employee's assignment authorization (or effective date), and such a system does not beget administrative simplicity. Thus, we find the arguments about increased administrative burdens on unions to be weakly supported. To the extent that the rule does increase administrative burdens on unions, we note that the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) has recognized—and we agree—that section 7115(a) is designed primarily for the benefit of the *employee,* not the union. *AFGE, Council 214, AFL–CIO* v. *FLRA,* 835 F.2d 1458, 1460–61 (D.C. Cir. 1987). Thus, in balancing the competing interests of employees in having greater freedom to revoke their dues assignments, and unions in having revocation procedures with minimal administrative burdens, we find that the rule as written properly weighs the employees' interests more heavily.

Comment: The Authority is ill equipped to craft an implementing regulation for the First Amendment to the U.S. Constitution.

Response: The rule is based on the Authority's interpretation of section 7115(a) of the Statute.

Comment: Because the wording of the Statute has not changed since the decision in *Army,* the Authority should not change its interpretation of section 7115(a).

Response: The Authority may, as it sees appropriate, reassess its statutory interpretations even when the underlying statutory wording has not changed. *See FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 514–16 (2009).

Comment: The Authority asserts that the rule would hew more closely to the text of section 7115(a). But, in fact, the rule would violate a separate provision of that section that says that an ''agency *shall honor* the assignment and make an appropriate allotment *pursuant to* the assignment,'' because the rule would instruct agencies to disregard the terms of the previously authorized assignments that the agencies have received. 5 U.S.C. 7115(a) (emphases added). Further, the rule ignores the revocation terms that appear on the current OPM-promulgated standard forms governing dues assignments and assignment revocations (SF–1187 and SF–1188, respectively).

Response: As explained in the **DATES** section above, the rule would apply only to dues assignments that are authorized *on or after* the rule's effective date. Thus, the rule would not require agencies to disregard the terms of previously authorized assignments that the agencies received before the effective date of the rule. Further, OPM will have an opportunity to promulgate updated versions of the SF–1187 and the SF–1188 before the rule's effective date, consistent with OPM's own implementing regulation for dues allotments. 5 CFR 550.321. In that regulation, OPM states that allotments under section 7115 ''shall be effected in accordance with such rules and regulations as may be prescribed by the Federal Labor Relations Authority.'' *Id.*

Comment: The rule will destabilize negotiated dues-assignment and assignment-revocation procedures that are included in collective-bargaining agreements (CBA) that are currently in force. Thus, the rule will upset parties' reliance interests on the previous interpretation of section 7115(a) in *Army.*

Response: Like all governmentwide regulations, the rule will be subject to the constraints of section 7116(a)(7) of the Statute. Thus, currently effective agreements will not be destabilized if they contain negotiated provisions that conflict with the rule.

Comment: The rule says that it is ''[c]onsistent with the exceptions in 5 U.S.C. 7115(b),'' but that subsection does not indicate that employees must be permitted to revoke their dues assignments at any time after the first year.

Response: Several commenters misunderstood the import of this introductory phrase. The rule begins with ''[c]onsistent with the exceptions in 5 U.S.C. 7115(b),'' in order to make clear that, where the conditions set forth in section 7115(b) are satisfied, a dues assignment must be cancelled, regardless of whether a year has passed since the assignment was first authorized, and regardless of whether the employee acts to revoke the authorization. *E.g., Int'l Ass'n of Machinists & Aerospace Workers, Lodge 2424,* 25 FLRA 194, 195 (1987) (''Section 7115(b) requires the termination of a dues withholding authorization in less than one year and without employee action in specified circumstances.'').

Comment: The Authority should not require employees to wait even one year to revoke a previously authorized assignment.

Response: Section 7115(a) dictates that assignments are irrevocable for the first year after authorization, and the rule adheres to that condition.

Comment: Several employees complained that it was difficult to determine their anniversary dates, as well as the window periods during which they were permitted to submit an SF–1188, in order to be able to revoke their previously authorized dues assignments. In addition, they explained that, in their experiences, the unions that represented them were not helpful in determining the applicable anniversary dates or form-submission window periods. Further, other commenters contended that the negotiated procedures for determining anniversary dates and window periods were not easily decipherable to a layperson. *E.g.,* Nat'l Right to Work Legal Def. Found. Comment (Apr. 9, 2020) at 5 (''In order for the SF–1188 to be timely, it must be submitted to the Union between the anniversary date of the effective date of the dues withholding and twenty-one (21) calendar days prior to the anniversary date.'' (quoting Master Agreement Between Dep't of Veterans Affairs & AFGE, Art. 41, sec. 6.A. (1997))).

Response: The Authority anticipates that this rule, once applicable, will make the sort of employee confusion or frustration mentioned above highly unlikely because employees will be able to initiate the revocation of a previously authorized assignment at any time after the first year.

Comment: The rule will inhibit unions' sound financial planning.

Response: The Authority acknowledges that this rule will make financial planning somewhat more difficult for unions, but believes that, as section 7115(a) is designed primarily for the benefit of employees (as discussed earlier), this tradeoff is justified by the increase in employees' flexibilities to exercise their rights under section 7102 of the Statute to refrain from joining or assisting any union. In addition, unions will still benefit from the certainty of the first year of irrevocability under section 7115(a). Further, we note that the rule certainly does not incentivize or require any employees to cancel dues assignments; it merely provides an option. Moreover, nothing prevents unions from developing dues-payment arrangements outside the federal payroll system that would provide them a greater measure of funding predictability.

Comment: The Authority lacks the power to put a matter beyond the duty to bargain through the issuance of its own governmentwide regulation.

Response: Section 7134 of the Statute empowers the Authority to issue regulations to carry out the Statute, 5 U.S.C. 7134, and 7105 of the Statute charges the Authority with the duty to ''provide leadership in establishing policies and guidance relationing to matters'' under the Statute, *id.* 7105(a)(1). Further, the rule being promulgated reflects the Authority's considered judgment in its area of expertise: Interpreting and ''carrying out'' the Statute. *Id.* 7105(a)(1), 7134. And it reflects the Authority's finding in *OPM* that section 7115(a) of the Statute prohibits revocation only for the first year after an assignment is authorized. 71 FLRA at 572. Admittedly, the Authority has not previously issued an analogous regulation that would shape the contours of the duty to bargain in the way that this rule will. But Congress instructed in section 7117(a)(1) of the Statute that the duty to bargain would not extend to a matter that was inconsistent with any governmentwide regulation. And there is no basis in the Statute for finding that Congress intended for section 7117(a)(1) to apply to governmentwide regulations issued by all of the other federal agencies that are statutorily authorized to promulgate legislative rules, but not to governmentwide regulations issued by the Authority. The Authority's rulemaking powers under sections 7105 and 7134 are broad, and properly exercised in this instance.

Comment: Because the rule concerns only the *initiation* of the revocation of a previously authorized dues assignment, the rule must permit parties to negotiate for delays in the processing of revocation forms.

Response: The Authority intends the rule's statement that an employee may ''initiate'' the revocation of a previous dues assignment at any time to allow for the normal processing time that an agency needs to effectuate such a revocation after it is received. Thus, the rule does not guarantee the instantaneous cancellation of dues assignment after an employee initiates the revocation. However, the rule also does not permit parties to negotiate for delays in the processing of revocation forms because those delays would defeat the purpose of the rule, which is to assure employees the fullest freedom in the exercise of their rights under the Statute, including their rights under sections 7102 and 7115. In order to make explicit the prohibition on negotiated processing delays, we are adding a second sentence to the rule—one that resembles wording that OPM suggested in its comment on the proposed rule. Specifically, we provide that after the expiration of the one-year period of irrevocability under 5 U.S.C. 7115(a), upon receiving an employee's request to revoke a previously authorized dues assignment, an agency must process the revocation request as soon as administratively feasible. Negotiated delays in processing revocation forms may provide benefits to unions or agencies, but they do not benefit individual employees. Moreover, the Authority has held that a failure to process an assignment form is an unfair labor practice. *E.g., Dep't of the Navy, Naval Underwater Sys. Ctr., Newport, R.I.,* 16 FLRA 1124, 1126–27 (1984); *cf. AFGE, Local 2192, AFL–CIO,* 68 FLRA 481, 482–84 (2015) (finding that a union committed an unfair labor practice by impeding the processing of revocation forms). This additional sentence clarifies agencies' processing responsibilities after receiving a request to revoke a previously authorized dues assignment, provided that the one-year irrevocability period has expired. The Authority adopts OPM's suggested standard of ''administrative feasibility'' in order to allow for a small measure of flexibility for the agency personnel responsible for processing assignment revocations, with the understanding that the timing of the revocation's submission, the workload of agency personnel, and other unforeseen factors may affect the speed with which revocations can be processed. However, agencies will be expected generally to process such revocations at least as quickly as they would generally process an initial authorization of dues assignment.

Comment: The rule is an attack on unions.

Response: The rule is rooted in the statutory text and the Authority's exercise of its judgment in balancing the competing interests of unions, agencies, and employees. It is no more accurate to say that, by increasing the ease with which employees may exercise their section 7102 rights to refrain from joining or assisting a union, the Authority is attacking unions, than it would have been to say that, by making it more difficult for employees to exercise those section 7102 rights, the rule set forth in *Army* was attacking employees. The Authority rejects the characterization of this rule as an attack on any party. As one commenter observed, ''[T]his new rule does nothing to prevent any [bargaining-unit employee] from remaining a dues[-]paying member as long as they

desire.'' Tammy Schuyler Comment (Apr. 7, 2020).

Comment: The Contracts Clause of the U.S. Constitution prohibits the rule.

Response: The Contracts Clause, U.S. Const. art. I, sec. 10, cl. 1, restricts the power of states, not the Federal Government. And, as explained above, the Authority's new rule will not destabilize any previously negotiated CBA provisions.

Comment: Neither section 7102 nor section 7115(a) *requires* that employees be permitted to revoke their dues assignments at any time of their choosing, after the first year of irrevocability.

Response: The Authority has never suggested that this rule is dictated by a provision in the Statute. Instead, the rule is filling a gap left by section 7115(a)'s silence on the treatment of dues-assignment revocations after the first year. In doing so, the Authority has sought to ensure employees their fullest freedom to refrain from joining or assisting a union, *see* 5 U.S.C. 7102—consistent with the one-year irrevocability period that section 7115(a) requires. We do not suggest that this rule represents the only possible balance that could be struck among competing interests. But the rule represents the balance that the Authority—in the exercise of congressionally delegated power to craft legislative rules, 5 U.S.C. 7134—finds will best fulfill the animating purposes behind sections 7102 and 7115. *Cf. id.* 7112(a) (in making appropriate-unit determinations, the Authority shall ''ensure employees the fullest freedom in exercising the rights guaranteed under'' the Statute).

Comment: The National Labor Relations Board has held that, in the private sector, parties are not prohibited from negotiating limitations on the revocability of dues assignments.

Response: As recognized by the D.C. Circuit, the ''dues withholding provision of the [Statute], 5 U.S.C. 7115, has no counterpart in the National Labor Relations Act or the Labor Management Relations Act.'' *AFGE, Council 214, AFL–CIO,* 835 F.2d at 1461. Thus, the court found that reliance on private-sector decisions to interpret section 7115 was misplaced. Further, even if the NLRB's decisions did concern an analogous statutory provision—which, as just explained, they do not—the Authority may, in the exercise of its discretion, reach conclusions that differ from the NLRB's.

Comment: The Authority should abandon the proposed rule.

Response: For the reasons described in *OPM,* and additionally, for the reasons explained in this preamble, the Authority had decided to amend its regulations to include the additional rule, which will now include two sentences. The first sentence will be adopted just as written in the proposed rule, and a second sentence will be added to make explicit agencies' processing responsibilities, which were discussed earlier.

Executive Order 12866

The FLRA is an independent regulatory agency, and as such, is not subject to the requirements of E.O. 12866.

Executive Order 13132

The FLRA is an independent regulatory agency, and as such, is not subject to the requirements of E.O. 13132.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the FLRA has determined that this rule will not have a significant impact on a substantial number of small entities, because this rule applies only to federal agencies, federal employees, and labor organizations representing those employees.

Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

This rule is not subject to the requirements of E.O. 13771 (82 FR 9339, Feb. 3, 2017) because it is related to agency organization, management, or personnel, and it is not a ''significant regulatory action,'' as defined in Section 3(f) of E.O. 12866 (58 FR 51735, Sept. 30, 1993).

Executive Order 13132, Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, this rule does not have sufficient federalism implications to warrant preparation of a federalism assessment.

Executive Order 12988, Civil Justice Reform

This regulation meets the applicable standard set forth in section 3(a) and (b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The amended regulations contain no additional information collection or record-keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

List of Subjects in 5 CFR Part 2429

Administrative practice and procedure, Government employees, Labor management relations.

Accordingly, for the reasons stated in the preamble, the FLRA amends 5 CFR part 2429 as follows:

PART 2429—[AMENDED]

■ 1. The authority citation for part 2429 continues to read as follows:

Authority: 5 U.S.C. 7134; § 2429.18 also issued under 28 U.S.C. 2112(a).

■ 2. Add § 2429.19 to subpart A to read as follows:

§ 2429.19 Revocation of assignments.

Consistent with the exceptions in 5 U.S.C. 7115(b), after the expiration of the one-year period during which an assignment may not be revoked under 5 U.S.C. 7115(a), an employee may initiate the revocation of a previously authorized assignment at any time that the employee chooses. After the expiration of the one-year period of irrevocability under 5 U.S.C. 7115(a), upon receiving an employee's request to

revoke a previously authorized dues assignment, an agency must process the revocation request as soon as administratively feasible.

Federal Labor Relations Authority.

Noah Peters,

Solicitor, Federal Register Liaison.

Note: The following appendix will not appear in the Code of Federal Regulations.

Member DuBester, Dissenting

In my dissenting opinion in *Office of Personnel Management* (*OPM*),[1] I explained how the majority's decision to reverse nearly four decades of Authority precedent governing the revocation of union-dues allotments was premised upon a U.S. Supreme Court decision that, ''by its own terms[,] has nothing to do with federal-sector labor relations.'' [2] I also cautioned that the majority's decision ''will only create confusion, uncertainty, and—ultimately—litigation on a myriad of issues.'' [3]

The majority has now abandoned any pretense that its decision in *OPM,* or its subsequent issuance of this final rule, has anything to do with the *Janus* v. *AFSCME, Council 31* decision.[4] Nevertheless, like similar decisions in which the majority has overturned Authority precedent without a plausible rationale, the rule it has now crafted to implement its flawed *OPM* decision will generate ''more questions than answers.'' [5]

For instance, the rule provides that an employee may initiate the revocation of a ''previously authorized [dues] assignment'' at any time the employee chooses ''after the expiration of the one-year period during which an assignment may not be revoked under 5 U.S.C. 7115(a).'' [6] As noted by the majority, a number of parties expressed concern that the rule would require agencies to unlawfully disregard the terms of previously authorized assignments, and would ignore the revocation terms that appear on the current OPM forms governing dues assignments and assignment revocations.

In response to these concerns, the majority explains that the rule would ''apply only to dues assignments that are authorized *on or after* the rule's effective date,'' and that agencies would therefore not be required ''to disregard the terms of previously authorized assignments that the agencies received before the [rule's] effective date.'' [7] But this explanation appears to contradict the rule's plain language, which applies its provisions to ''previously authorized assignment[s].'' [8] Moreover, if the rule is indeed intended to apply only to assignments authorized after its effective date, it is unclear which ''previously authorized'' assignments it is referencing.

It is also not apparent how providing a ''one-year period of irrevocability'' [9] for dues assignments will not dramatically increase the administrative burdens placed upon both agencies and unions to administer these assignments. If this one-year period is intended to apply to the execution of any dues assignment, it would presumably apply to both an employee's initial assignment and to any subsequently executed assignment, thereby creating a new and different anniversary date that will now have to be tracked for each subsequent assignment. Remarkably, while the majority expresses great skepticism regarding the unions' concerns regarding the obvious administrative burdens arising from its rule, it accepts without any attendant skepticism the contrary claims of several agencies.

More significantly, the majority does not adequately explain how its rule will operate with respect to existing and future collectively-bargained provisions governing dues assignments and revocations. Regarding existing contract provisions, the majority indicates that the rule, ''[l]ike all governmentwide regulations . . . will be subject to the constraints of section 7116(a)(7) of the Statute.'' [10] And regarding bargaining agreements negotiated subsequent to issuance of the rule, it explains that the parties will not be permitted ''to negotiate for delays in the processing of revocation forms because those delays would defeat the purpose of the rule.'' [11] It has also added an entirely new provision to the final rule which requires agencies to process an employee's request to revoke ''a previously authorized'' dues assignment ''as soon as administratively feasible.'' [12]

The new provision governing agencies' obligations to process revocation requests was not part of the proposed rule. Because the parties were not afforded any opportunity to comment on this provision's implications, it is unclear what types of negotiated procedures would be considered ''administratively feasible'' under the rule. And it is even less clear what the majority means by advising parties that they cannot ''negotiate for delays'' in this process.

But more importantly, the majority's explanation regarding the rule's impact upon existing bargaining agreements illustrates the unprecedented nature of this rule. The majority indicates that the rule is intended to be applied as a government-wide regulation within the meaning of section 7117(a)(1) of the Statute. And it acknowledges that the Authority ''has not previously issued an analogous regulation that would shape the contours of the duty to bargain in the way that this rule will.'' [13]

Nonetheless, with little apparent concern for the potential consequences, the majority today chooses to determine the scope of the parties' bargaining obligations through *regulatory fiat* rather than a reasoned decision addressing the facts and circumstances of an actual dispute. Indeed, as I warned in my dissenting opinion, the majority first stepped foot on this slippery slope when it issued its *OPM* decision. That decision reversed decades of well-established precedent governing dues allotments ''by means of a policy statement that [was] neither responsive to the original request nor warranted under the Authority's standards governing the issuance of general statements of policy.'' [14]

And, contrary to its suggestion, the reckless course of action embraced by the majority is not the kind of ''leadership'' contemplated by the Statute.[15] Regrettably, the confusion, uncertainty, and litigation that will inevitably arise from this ill-conceived rule will undoubtedly demonstrate why the Authority has not proceeded down this path before today. Accordingly, I dissent.

[FR Doc. 2020–14717 Filed 7–7–20; 11:15 am]

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[1] 71 FLRA 571 (2020) (Member DuBester dissenting).

[2] *Id.* at 579 (Dissenting Opinion of Member DuBester) (citing *Janus* v. *AFSCME, Council 31,* 138 S.Ct. 2448 (2018)).

[3] *Id.*

[4] Notice at 3 (''the majority decision rested exclusively on statutory exegesis, rather than principles of constitutional law'').

[5] *AFGE, Local 1929* v. *FLRA,* _F F.3d _, 2020 WL 3053410, at 7 (D.C. Cir. 2020).

[6] Notice at 16.

[7] *Id.* at 7 (emphasis in original).

[8] *Id.* at 16.

[9] *Id.*

[10] *Id.* at 8.

[11] *Id.* at 11.

[12] *Id.*

[13] *Id.* at 10.

[14] *OPM,* 71 FLRA at 576; *see also id.* at 579 (noting that ''questions regarding whether particular dues withholding arrangements offend employees' statutory rights'' are ''the types of questions that are particularly appropriate for resolution in the context of the facts and circumstances presented by parties in an actual dispute'').

[15] Notice at 10 (quoting 5 U.S.C. 7105(a)(1)).

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 900

[AMS–DA–20–0044]

Procedural Requirements Governing Proceedings Pertaining to Marketing Agreements and Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture (USDA) is adopting a final rule to amend the procedural regulations governing proceedings to formulate or amend Marketing Agreements and Marketing Orders. This final rule adopts a provision to allow the agency to utilize alternative procedures for conducting a rulemaking proceeding as outlined in a notice of hearing.

DATES: This final rule is effective on July 9, 2020.

FOR FURTHER INFORMATION CONTACT: Erin Taylor, Acting Director, Order Formulation and Enforcement Division, Dairy Program, 202–720–7311, *erin.taylor@usda.gov.*

SUPPLEMENTARY INFORMATION: USDA is issuing this final rule to amend the

procedural regulations governing proceedings pertaining to Marketing Agreements and Marketing Orders in 7 CFR 900 Subpart A. Those rules of practice and procedure are applicable to proceedings under the Agricultural Marketing Agreement Act of 1937, as amended (50 Stat. 246). For purposes of efficiency and modernization, and to provide flexibility to adapt procedures under unique circumstances, a provision allowing the notice of hearing to include alternative procedures is being added.

Executive Orders 12866, 13771, and 12988

This rule is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is not subject to the requirements of Executive Order 12866.

This rule is not an Executive Order 13771 regulatory action because it is exempt from the definition of ''regulation'' or ''rule'' in Executive Order 12866 and, thus, is not a regulatory action.

The rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. The rule will not preempt any state or local law, regulations, or policies, unless they present an irreconcilable conflict with this rule.

Executive Order 13132

This rule has been reviewed in accordance with the requirements of Executive Order 13132, Federalism. The review reveals that this rule does not contain policies with federalism implications sufficient to warrant federalism consultation under Executive Order 13132.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on tribal governments and would not have significant tribal implications.

5 U.S.C. 553, 601, and 804

This final rule amends agency rules of practice and procedure. Under the Administrative Procedure Act, prior notice and opportunity for comment are not required for the promulgation of agency rules of practice and procedure. 5 U.S.C. 553(b)(3)(A). Additionally, only substantive rules require publication 30 days prior to their effective date. 5 U.S.C. 553(d). Therefore, this final rule is effective upon publication in the **Federal Register**.

Furthermore, under 5 U.S.C. 804, this rule is not subject to congressional review under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. In addition, because prior notice and opportunity for comment are not required to be provided for this final rule, this rule is exempt from the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

Paperwork Reduction Act

This rule contains no information collections or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 900

General Regulations.

For the reasons stated in the preamble, the Agricultural Marketing Service amends the 7 CFR 900 Subpart A, as follows:

PART 900—GENERAL REGULATIONS

Subpart A—Procedural Requirements Governing Proceedings Pertaining to Marketing Agreements and Marketing Orders

■ 1. The authority citation for subpart A continues to read as follows:

Authority: 7 U.S.C. 610

■ 2. Revise the heading of Subpart A to read as set forth above:

■ 3. In § 900.4, revise paragraph (a) and add paragraph (d) to read as follows:

§ 900.4 Institution of proceeding.

(a) *Filing and contents of the notice of hearing.* The proceeding shall be instituted by filing the notice of hearing with the hearing clerk. The notice of hearing shall contain a reference to the authority under which the marketing agreement or marketing order is proposed; shall define the scope of the hearing as specifically as may be practicable; shall describe any alternative procedures established pursuant to paragraph (d) of this section; shall contain either the terms or substance of the proposed marketing agreement or marketing order or a description of the subjects and issues involved and shall state the industry, area, and class of persons to be regulated, the time and place of such hearing, and the place where copies of such proposed marketing agreement or marketing order may be obtained or examined. The time of the hearing shall not be less than 15 days after the date of publication of the notice in the **Federal Register**, as provided in this subpart, unless the Administrator shall determine that an emergency exists which requires a shorter period of notice, in which case the period of notice shall be that which the Administrator may determine to be reasonable in the circumstances: Provided, That, in the case of hearings on amendments to marketing agreements or marketing orders, the time of the hearing may be less than 15 days but shall not be less than 3 days after the date of publication of the notice in the **Federal Register**.

* * * * *

(d) *Alternative procedures.* The Administrator may establish alternative procedures for the proceeding that are in addition to or in lieu of one or more procedures in this subpart, provided that the procedures are consistent with 5 U.S.C. 556 and 557. The alternative procedures must be described in the notice of hearing, as required in paragraph (a) of this section.

* * * * *

■ 2. Amend § 900.8 by revising paragraph (b)(1) to read as follows:

§ 900.8 Conduct of the hearing.

* * * * *

(b) * * * (1) *Right to appear.* At the hearing, any interested person shall be given an opportunity to appear, either in person or through his authorized counsel or representative, and to be heard with respect to matters relevant and material to the proceeding, provided that such interested person complies with any alternative procedures included in the hearing notice pursuant to§ 900.4. Any interested person who desires to be heard in person at any hearing under these rules shall, before proceeding to testify, state his name, address, and occupation. If any such person is appearing through a counsel or representative, such person or such counsel or representative shall, before proceeding to testify or otherwise to participate in the hearing, state for the record the authority to act as such counsel or representative, and the names and addresses and occupations of such person and such counsel or representative. Any such person or such counsel or representative shall give such other information respecting his appearance as the judge may request.

* * * * *

Bruce Summers,

Administrator.

[FR Doc. 2020–13364 Filed 7–8–20; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0202; Product Identifier 2020–NM–025–AD; Amendment 39–19921; AD 2020–12–12]

RIN 2120–AA64

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

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Yaborã Indústria Aeronáutica S.A. Model ERJ 170 airplanes and Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes. This AD was prompted by reports of cracks discovered on the engine pylon inboard lower link lugs. This AD requires repetitive detailed inspections of the engine inboard and outboard engine pylon lower link lugs for cracking, and repair if necessary, as specified in an Agência Nacional de Aviação Civil (ANAC) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 13, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 13, 2020.

ADDRESSES: For ANAC material incorporated by reference (IBR) in this AD, contact National Civil Aviation Agency (ANAC), Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, BRAZIL, Tel: 55 (12) 3203–6600; Email: *pac@anac.gov.br;* internet *www.anac.gov.br/en/.* You may find this IBR material on the ANAC website at *https://sistemas.anac.gov.br/certificacao/DA/DAE.asp.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0202.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0202; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

The ANAC, which is the aviation authority for Brazil, has issued ANAC AD 2020–01–02, effective January 28, 2020 (''ANAC AD 2020–01–02'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 SU, –200 STD, and –200 LL airplanes; and Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –100 SR, –200 STD, –200 LR, and –200 IGW airplanes. Model ERJ 190–100 SR airplanes are not certified by the FAA and are not included on the U.S. type certificate data sheet; therefore, this AD does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Model ERJ 170 airplanes and Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes. The NPRM published in the **Federal Register** on March 20, 2020 (85 FR 16016). The NPRM was prompted by reports of cracks discovered on the engine pylon inboard lower link lugs. The NPRM proposed to require repetitive detailed inspections of the engine inboard and outboard engine pylon lower link lugs for cracking, and repair if necessary, as specified in an ANAC AD.

The FAA is issuing this AD to address cracking of the engine pylon lower link lugs, which could cause the loss of engine pylon integrity, and could result in engine separation from the wing, loss of airplane controllability, and possible injury to persons on the ground. See the MCAI for additional background information.

Comments

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

Request To Add the ''Required for Compliance'' (RC) Paragraph

Yaborã Indústria Aeronáutica S.A. requested inclusion of RC language in the proposed AD. The commenter noted that steps in the service information that are indicated as RC have a direct effect on detecting, preventing, resolving, or eliminating the unsafe condition addressed in an AD. The commenter further stated that the service information referenced in the proposed AD would be revised to denote steps that must be done to comply with the AD as RC.

The FAA agrees with the request for the reasons provided and has added the requested language in paragraph (i)(3) of this AD and re-identified paragraph (i)(3) of the proposed AD as paragraph (i)(4) of this AD.

Request To Use Alternate Access Method for Inspection

JetBlue Airways requested approval to perform the inspection required by the proposed AD by removing access door 419WL and access panel 419UR of the left-hand (LH) pylon, and access door 429XR and access panel 429TL of the right-hand (RH) pylon, instead of removing the side fairings. The commenter stated that previous inspections of 50 airplanes in their fleet indicated there was sufficient access to perform a visual inspection of the pylon lower link lug without removing the side fairings. The commenter also stated that removal of the side fairings can damage secondary structures inside the fairings, causing additional rework or replacement, as well as additional costs.

The FAA does not agree to approve the alternate access request. A detailed inspection, such as the one required by this AD, requires an intensive examination of the subject area, which may necessitate surface cleaning, additional lighting, and use of magnification. Removal of the specified access panels and doors instead of the side fairings does not give sufficient access for performing this detailed

inspection. The AD has not been changed in this regard.

Conclusion

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

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

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

Related IBR Material Under 1 CFR Part 51

ANAC AD 2020–01–02 describes procedures for repetitive detailed inspections of LH and RH inboard and outboard engine pylon lower link lugs for cracking, and repair if necessary. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
3 work-hours × $85 per hour = $255	$0	$255	$168,045

The FAA estimates that it would take about 1 work-hour per product to comply with the reporting requirement in this AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost on U.S. operators of reporting the inspection results to be $56,015, or $85 per product.

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

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–12–12 Yaborã Indústria Aeronáutica S.A. (Type Certificate previously held by Embraer S.A.) Airplanes: Amendment 39–19921; Docket No. FAA–2020–0202; Product Identifier 2020–NM–025–AD.

(a) Effective Date

This AD is effective August 13, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Yaborã Indústria Aeronáutica S.A. (Type certificate previously held by Embraer S.A.) airplanes specified in paragraphs (c)(1) and (2) of this AD, certificated in any category.

(1) Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 SU, –200 STD, and –200 LL airplanes.

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

(d) Subject

Air Transport Association (ATA) of America Code 54, Nacelles/pylons.

(e) Reason

This AD was prompted by reports of cracking on the left-hand (LH) and right-hand (RH) sides of engine pylon inboard lower link lugs. The FAA is issuing this AD to address cracking of the engine pylon lower link lugs, which could cause the loss of engine pylon integrity, and could result in engine separation from the wing, loss of airplane controllability, and possible injury to persons on the ground.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Agência Nacional de Aviação Civil (ANAC) AD 2020–01–02, effective January 28, 2020 (''ANAC AD 2020–01–02'').

(h) Exceptions to ANAC AD 2020–01–02

(1) Where ANAC AD 2020–01–02 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where ANAC AD 2020–01–02 requires contacting ''ANAC and Embraer . . . to approve an adequate repair,'' for this AD, obtain repair instructions using the procedures specified in paragraph (i)(2) of this AD and do the repair.

(3) The ''Alternative methods of compliance (AMOCs)'' section of ANAC AD 2020–01–02 does not apply to this AD.

(4) Paragraph (e) of ANAC AD 2020–01–02 specifies to report inspection results to ANAC and Yaborã Indústria Aeronáutica S.A. within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(4)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or ANAC; or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

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

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

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

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

(j) Related Information

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

(k) Material Incorporated by Reference

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

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

(i) Agência Nacional de Aviação Civil (ANAC) AD 2020–01–02, effective January 28, 2020.

(ii) [Reserved]

(3) For information about ANAC AD 2020–01–02, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, BRAZIL, Tel: 55 (12) 3203–6600; Email: *pac@anac.gov.br.* You may find this IBR material on the ANAC website at *https://sistemas.anac.gov.br/certificacao/DA/DAE.asp.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0202.

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

Issued on June 18, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–14780 Filed 7–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0589; Product Identifier 2020–NM–093–AD; Amendment 39–19920; AD 2020–12–11]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A319–111, –112, –113, –114, –115, –151N, and –153N airplanes; Model A320–251N, –252N, –253N, –271N, –272N, and –273N airplanes; and Model A321–251N, –251NX, –252N, –252NX, –253N,

–253NX, –271N, –271NX, –272N, and –272NX airplanes. This AD was prompted by a report of a non-stabilized approach followed by an automatic go-around, which led to an airplane pitch-up attitude and resulted in an auto-pilot disconnection. This AD requires revising the airplane flight manual (AFM) and applicable corresponding operational procedures to limit the use of speed brakes in certain airplane configurations and informing all flight crews, thereafter, to operate the airplane with limitations accordingly, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective July 24, 2020.

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

The FAA must receive comments on this AD by August 24, 2020.

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

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

For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0589.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0589; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *sanjay.ralhan@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0118, dated May 22, 2020 (''EASA AD 2020–0118'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A319–111, –112, –113, –114, –115, –151N, and –153N airplanes; Model A320–251N, –252N, –253N, –271N, –272N, and –273N airplanes; and Model A321–251N, –251NX, –252N, –252NX, –253N,–253NX, –271N, –271NX, –272N, and –272NX airplanes.

This AD was prompted by a report of a non-stabilized approach followed by an automatic go-around, which led to an airplane pitch-up attitude and resulted in an auto-pilot disconnection. The FAA is issuing this AD to address certain airplane configurations, which could result in auto-pilot disconnection and high angle-of-attack, and consequent increased workload for the flightcrew during a critical phase of flight and possible loss of control of the airplane. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0118 describes procedures for revising the AFM to limit the use of speed brakes in certain landing conditions.

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

FAA's Determination

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

Requirements of This AD

This AD requires revising the existing AFM and applicable corresponding operational procedures to limit the use of speed brakes in certain airplane configurations and informing all flight crews, thereafter, to operate the airplane with limitations accordingly, as specified in EASA 2020–0118 as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0118 is incorporated by reference in this final rule. This AD, therefore, requires compliance with EASA AD 2020–0118 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0118 that is required for compliance with EASA AD 2020–0118 is available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0589.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because after a go-around initiation under certain configurations, pitch up attitude may increase followed by auto-pilot disconnection and high angle-of-attack, which could lead to consequent increased workload for the flightcrew during a critical phase of flight and a possible loss of control of the airplane. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reasons stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not precede it by notice and opportunity for public comment. The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0589; Product Identifier 2020–NM–093–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this AD. The FAA will consider all comments received by the closing date and may amend this AD based on those comments.

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

Interim Action

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

Regulatory Flexibility Act (RFA)

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

Costs of Compliance

The FAA estimates that this AD affects 380 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × $85 per hour = $85	None	$85	$32,300

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–12–11 Airbus SAS: Amendment 39–19920; Docket No. FAA–2020–0589; Product Identifier 2020–NM–093–AD.

(a) Effective Date

This AD becomes effective July 24, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model airplanes identified in paragraphs (c)(1) through (3) inclusive, certificated in any category.

(1) Model A319–111, –112, –113, –114, –115, –151N, and –153N airplanes.

(2) Model A320–251N, –252N, –253N, –271N, –272N, and –273N airplanes.

(3) Model A321–251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 22, Auto Flight.

(e) Reason

This AD was prompted by a report of a non-stabilized approach followed by an automatic go-around, which lead to an airplane pitch-up attitude and resulted in an auto-pilot disconnection. The FAA is issuing this AD to address certain airplane configurations, which could result in auto-pilot disconnection and high angle-of-attack, and consequent increased workload for the flightcrew during a critical phase of flight and possible loss of control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0118, dated May 22, 2020 (''EASA AD 2020–0118'').

(h) Exceptions to EASA AD 2020–0118

(1) Where EASA AD 2020–0118 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0118 does not apply to this AD.

(3) Paragraph (1) of EASA AD 2020–0118 specifies amending ''the applicable AFM [airplane flight manual],'' but this AD requires amending ''the applicable AFM and applicable corresponding operational procedures.''

(i) Special Flight Permit

Special flight permits, as described in 14 CFR 21.197 and 21.199, are not allowed.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC)*: For any service information referenced in EASA AD 2020–0118 that contains RC procedures and tests: Except as required by paragraph (j)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Related Information

For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *sanjay.ralhan@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–0118, dated May 22, 2020.

(ii) [Reserved]

(3) For information about EASA AD 2020–0118, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0589.

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

Issued on June 11, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–14778 Filed 7–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0575; Product Identifier 2020–NM–096–AD; Amendment 39–19924; AD 2020–12–15]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. This AD was prompted by a report that certain safety valves at the left- and right-hand sides of the cabin pressure control system were not installed correctly and that the trunnion nuts used to fasten the V-band clamp were over torqued. This AD requires a measurement of the trunnion nut torque of the V-band clamp, an inspection of the safety valve and airplane bulkhead flange area for any cracking and deformations, and corrective actions, if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective July 24, 2020.

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

The FAA must receive comments on this AD by August 24, 2020.

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

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

For service information identified in this final rule, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0575.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0575; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, any comments received, and other information. The street address for the Docket Operations office is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2020–16, dated May 15, 2020 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. You may examine the MCAI on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0575.

This AD was prompted by a report that certain safety valves at the left- and right-hand sides of the cabin pressure control system were not installed correctly and that the trunnion nuts used to fasten the V-band clamp were over torqued. The FAA is issuing this AD to address incorrect installation of the safety valves and over-torqued trunnion nuts, which could cause damage to the safety valve flange and could result in pressure leakage or cabin depressurization at altitude. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

Bombardier has issued Service Bulletin 700–21–5009, Revision 02, dated March 31, 2020; and Service Bulletin 700–21–6009, Revision 02, dated March 31, 2020. This service information describes procedures for a measurement of the trunnion nut torque of the V-band clamp at the left- and right-hand sides of the cabin pressure control system safety valves, a general visual or magnification inspection of the safety valve and airplane bulkhead flange area for any cracking and deformation, and corrective actions. The corrective actions include replacement of the safety valve and repair of cracks on the airplane bulkhead flange. These documents are distinct since they apply to different airplane models.

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

FAA's Determination

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

Requirements of This AD

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

Explanation of Compliance Time

In most ADs, we adopt a compliance time relative to the AD's effective date. In this case, however, TCCA has already issued regulations that require operators to measure the trunnion nut torque of the V-band clamp to address the identified unsafe condition by a certain date. Per the safety assessment of the design approval holder and TCCA, the initial measurement of the trunnion nut torque of the V-band clamp must be completed before August 31, 2020. In addition, TCCA also requires operators to replace certain safety valves by that date. To provide for coordinated implementation of TCCA's regulations and this AD, we are using the same compliance date in this AD.

Differences Between This AD and the MCAI

Canadian AD CF–2020–16, dated May 15, 2020, requires an inspection of the bulkhead flange but does not provide a corrective action. This AD includes a corrective action as specified in paragraphs (h)(1)(iii) and (h)(2)(B)(iii) of this AD.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because incorrectly installed safety valves and over-torqued trunnion nuts could cause damage to the safety valve flange and could result in pressure leakage or cabin depressurization at altitude. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reasons stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not precede it by notice and opportunity for public comment. The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0575; Product Identifier 2020–NM–096–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this AD. The FAA will consider all comments received by the closing date and may amend this AD based on those comments.

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

Regulatory Flexibility Act (RFA)

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

Costs of Compliance

The FAA estimates that this AD affects 17 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × $85 per hour = $170	$0	$170	$2,890

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS *

Labor cost	Parts cost	Cost per product
3 work-hours × $85 per hour = $255	$5,070	$5,325

* The table does not include costs for the corrective action for the bulkhead flange. The FAA has received no definitive data for the cost of this corrective action.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–12–15 Bombardier, Inc.: Amendment 39–19924; Docket No. FAA–2020–0575; Product Identifier 2020–NM–096–AD.

(a) Effective Date

This AD becomes effective July 24, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes, certificated in any category, serial numbers 9810 through 9838 inclusive, 9840 through 9842 inclusive, 9844 through 9846 inclusive, 9854 and 9855.

(d) Subject

Air Transport Association (ATA) of America Code 36, Pneumatic.

(e) Reason

This AD was prompted by a report that certain safety valves at the left- and right-hand sides of the cabin pressure control system were not installed correctly and that the trunnion nuts used to fasten the V-band clamp were over torqued. The FAA is issuing this AD to address incorrect installation of the safety valves and over-torqued trunnion nuts, which could cause damage to the safety valve flange and could result in pressure leakage or cabin depressurization at altitude.

(f) Compliance

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

(g) Measurement

Before August 31, 2020, measure the trunnion nut torque of the V-band clamps at the left-and right-hand sides of the cabin pressure control system safety valves, in accordance with paragraphs 2.B.(1) and 2.B.(2) of the Accomplishment Instructions of the applicable service information specified in figure 1 to paragraphs (g) and (h) of this AD.

Figure 1 to paragraphs (g) and (h) – *Service Information*

For Airplane Model –	Use Bombardier Service Bulletin –
BD-700-1A10 airplanes	700-21-6009, Revision 02, dated March 31, 2020
BD-700-1A11 airplanes	700-21-5009, Revision 02, dated March 31, 2020

(h) Inspection and Corrective Actions

Based on the torque measurement required by paragraph (g) of this AD, do the applicable actions specified in paragraph (h)(1) or (2) of this AD.

(1) For safety valves with a V-band clamp trunnion nut torque of less than 80 lbf-in: Before further flight, do a general visual inspection for any cracking and deformation, in accordance with paragraph 2.B.(3)(a) of the Accomplishment Instructions of the applicable service information specified in figure 1 to paragraphs (g) and (h) of this AD.

(i) If no cracking and deformation is found on the safety valve and airplane bulkhead flange: Before further flight, re-torque the V-band clamp trunnion nut, in accordance with paragraph 2.B.(3)(b) of the Accomplishment Instructions of the applicable service information specified in figure 1 to paragraphs (g) and (h) of this AD.

(ii) If any cracking or deformation is found on the safety valve: Before further flight, replace the safety valve, in accordance with paragraph 2.C. of the Accomplishment Instructions of the applicable service information specified in figure 1 to paragraphs (g) and (h) of this AD.

(iii) If any cracking or deformation is found on the airplane bulkhead flange: Before further flight, repair using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(2) For safety valves with a V-band clamp trunnion nut torque of 80 lbf-in or higher: Before further flight, do a magnification inspection for any cracking and deformation of the safety valve and airplane bulkhead flange area, in accordance with paragraphs 2.B.(4)(a) and 2.B.(4)(b) of the Accomplishment Instructions of the applicable service information specified in figure 1 to paragraphs (g) and (h) of this AD.

(i) If no cracking and deformation is found on the safety valve and airplane bulkhead flange, do the actions specified in paragraphs (h)(2)(i)(A) and (B) of this AD.

(A) Before further flight, re-install the safety valve and torque the V-band clamp trunnion nut, in accordance with paragraph 2.B.(4)(c) of the Accomplishment Instructions of the applicable service information specified in figure 1 to paragraphs (g) and (h) of this AD.

(B) Before August 31, 2021, replace the safety valve, in accordance with paragraph 2.C. of the Accomplishment Instructions of the applicable service information specified in figure 1 to paragraphs (g) and (h) of this AD.

(ii) If any cracking or deformation is found on the safety valve: Before further flight, replace the safety valve, in accordance with paragraph 2.C. of the Accomplishment Instructions of the applicable service information specified in figure 1 to paragraphs (g) and (h) of this AD.

(iii) If any cracking or deformation is found on the airplane bulkhead flange: Before further flight, repair using a method approved by the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using the following service information.

(1) Bombardier Service Bulletin 700–21–5009, dated January 23, 2020; and Bombardier Service Bulletin 700–21–5009, Revision 01, dated March 19, 2020.

(2) Bombardier Service Bulletin 700–21–6009, dated January 23, 2020; and Bombardier Service Bulletin 700–21–6009, Revision 01, dated March 19, 2020.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2020–16, dated May 15, 2020, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0575.

(2) For more information about this AD, contact Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 700–21–5009, Revision 02, dated March 31, 2020.

(ii) Bombardier Service Bulletin 700–21–6009, Revision 02, dated March 31, 2020.

(3) For service information identified in this AD, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.*

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

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

Issued on June 18, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–14779 Filed 7–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0049; Airspace Docket No. 19–AEA–11]

RIN 2120–AA66

Revocation and Amendment of Multiple Air Traffic Service (ATS) Routes in the Vicinity of Bradford, PA, and Wellsville, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends VHF Omnidirectional Range (VOR) Federal airways V–33, V–116, V–119, V–126, V–164, V–170, V–265, V–270, and V–501 in the vicinity of Bradford, PA, and Wellsville, NY. The VOR Federal airway modifications are necessary due to the planned decommissioning of the VOR portions of the Bradford, PA, VOR/Distance Measuring Equipment (VOR/DME) and the Wellsville, NY, VOR/Tactical Air Navigation (VORTAC) navigation aids (NAVAIDs). The NAVAIDs provide navigation guidance for portions of the affected airways. These VORs are being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, September 10, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a notice of proposed rulemaking (NPRM) for Docket No. FAA–2020–0049 in the **Federal Register** (85 FR 6115; February 4, 2020), amending VOR Federal airways V–33, V–116, V–119, V–126, V–164, V–170, V–265, V–270, and V–501 in the vicinity of Bradford, PA, and Wellsville, NY, due to the planned decommissioning of the VOR portions of the Bradford, PA, VOR/DME and the Wellsville, NY, VORTAC. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Subsequent to the NPRM, the FAA published a rule for Docket No. FAA–2020–0007 in the **Federal Register** (85 FR 38783; June 29, 2020), amending VOR Federal airway V–119 by removing the airway segment overlying the Newcombe, KY, VORTAC between the Newcombe, KY, VORTAC and the Henderson, WV, VORTAC. That airway amendment, effective September 10, 2020, is included in this rule.

VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document will be subsequently published in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

Differences From the Proposal

In the NPRM, the description of VOR Federal airway V–33 contained in the Proposal section included the exclusionary language, ''The airspace within R–4007A and R–4007B [restricted areas] is excluded.'' That exclusion language in the airway description has been unchanged since the exclusion language was added to the V–33 description in 1980 (45 FR 77418; November 24, 1980). However, R–4007A was re-designated R–4007 in 1997 and R–4007B expired in 1983. The correct restricted area reference for the exclusion language is ''R–4007''.

On September 7, 1978, the FAA re-designated restricted area R–4007 as R–4007A, and temporarily established a new restricted area, R–4007B, directly above it (43 FR 28813; July 3, 1978). The purpose of R–4007B was to provide additional airspace to accommodate fighter development testing. The R–4007B designation expired on January 1, 1983. However, R–4007A was not renumbered at that time due to the possibility of future rulemaking action to re-establish the ''B'' area to contain other flight test projects.

Based on forecast requirements at the Patuxent River test facility, the U.S. Navy determined that there was no future need for R–4007B and requested the FAA re-designate R–4007A as R–4007. On February 26, 1998, the FAA re-designated restricted area R–4007A as R–4007 (62 FR 65359; December 12, 1997).

Therefore, this rule changes the restricted area references in the V–33 exclusion language from ''R–4007A and R–4007B'' to ''R–4007''.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying VOR Federal airways V–33, V–116, V–119, V–126, V–164, V–170, V–265, V–270, and V–501. The planned decommissioning of the VOR portion of the Bradford, PA, VOR/DME and Wellsville, NY, VORTAC NAVAIDs have made this action necessary. The

VOR Federal airway changes are outlined below.

V–33: V–33 extends between the Harcum, VA, VORTAC and the Nottingham, MD, VORTAC; and between the Baltimore, MD, VORTAC and the Buffalo, NY, VOR/DME. The airspace within R–4007 is excluded. The airway segment overlying the Bradford, PA, VOR/DME between the Keating, PA, VORTAC and the Buffalo, NY, VOR/DME is removed. The unaffected portions of the existing airway remain as charted.

V–116: V–116 extends between the Erie, PA, VORTAC and the Sparta, NJ, VOR/DME. The airway segment overlying the Bradford, PA, VOR/DME between the Erie, PA, VORTAC and the Stonyfork, PA, VOR/DME is removed. The unaffected portions of the existing airway remain as charted.

V–119: V–119 extends between the Henderson, WV, VORTAC and the Rochester, NY, VOR/DME. The airway segment overlying the Bradford, PA, VOR/DME and the Wellsville, NY, VORTAC between the Clarion, PA, VORTAC and the Rochester, NY, VORTAC is removed. The unaffected portions of the existing airway would remain as charted.

V–126: V–126 extends between the intersection of the Peotone, IL, VORTAC 053° and Knox, IN, VOR/DME 297° radials and the intersection of the Goshen, IN, VORTAC 092° and Fort Wayne, IN, VORTAC 016° radials; and between the Erie, PA, VORTAC and the Stonyfork, PA, VOR/DME. The airway segment overlying the Wellsville, NY, VORTAC between the Erie, PA, VORTAC and the Stonyfork, PA, VOR/DME is removed. The unaffected portions of the existing airway remain as charted.

V–164: V–164 extends between the Buffalo, NY, VOR/DME and the East Texas, PA, VOR/DME. The airway segment overlying the Wellsville, NY, VORTAC between the Buffalo, NY, VOR/DME and the Stonyfork, PA, VOR/DME is removed. The unaffected portions of the existing airway remain as charted.

V–170: V–170 extends between the Devils Lake, ND, VOR/DME and the Worthington, MN, VOR/DME; between the Rochester, MN, VOR/DME and the Salem, MI, VORTAC; and between the Bradford, PA, VOR/DME and the intersection of the Andrews, MD, VORTAC 060° and Baltimore, MD, VORTAC 165° radials. The airspace within restricted area R–5802 is excluded when the restricted area is active. The airway segment overlying the Bradford, PA, VOR/DME between the Bradford, PA, VOR/DME and the Slate Run, PA, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

V–265: V–265 extends between the intersection of the Washington, DC, VOR/DME 043° and Westminster, MD, VORTAC 179° radials and the Jamestown, NY, VOR/DME. The airway segment overlying the Bradford, PA, VORTAC between the Keating, PA, VORTAC and the Jamestown, NY, VOR/DME is removed. Additionally, an editorial correction changes the state abbreviation for the Keating VORTAC to ''PA''. The unaffected portions of the existing airway remain as charted.

V–270: V–270 extends between the Erie, PA, VORTAC and the Boston, MA, VOR/DME. The airway segment overlying the Wellsville, NY, VORTAC between the Jamestown, NY, VOR/DME and the Elmira, NY, VOR/DME is removed. The unaffected portions of the existing airway remain as charted.

V–501: V–501 extends between the Martinsburg, WV, VORTAC and the Philipsburg, PA, VORTAC; and between the Wellsville, NY, VORTAC and the intersection of the Wellsville, NY, VORTAC 045° and Geneseo, NY, VOR/DME 091° radials. The airway segment overlying the Wellsville, NY, VORTAC between the Wellsville, NY, VORTAC and the intersection of the Wellsville, NY, VORTAC 045° and Geneseo, NY, VOR/DME 091° radials is removed. The unaffected portions of the existing airway remain as charted.

All NAVAID radials listed in the VOR Federal airway descriptions below are unchanged and stated in True degrees.

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

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of modifying VOR Federal airways V–33, V–116, V–119, V–126, V–164, V–170, V–265, V–270, and V–501, due to the planned decommissioning of the VOR portion of the Bradford, PA, VOR/DME and Wellsville, NY, VORTAC NAVAIDs, qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–33 [Amended]

From Harcum, VA; INT Harcum 003° and Nottingham, MD, 174° radials; to Nottingham. From Baltimore, MD; INT Baltimore 004° and Harrisburg, PA, 147° radials; Harrisburg; Philipsburg, PA; to Keating, PA. The airspace within R–4007 is excluded.

* * * * *

V–116 [Amended]

From Stonyfork, PA; INT Stonyfork 098° and Wilkes-Barre, PA, 310° radials; Wilkes-Barre; INT Wilkes-Barre 084° and Sparta, NJ, 300° radials; to Sparta.

* * * * *

V–119 [Amended]

From Henderson, WV; Parkersburg, WV; INT Parkersburg 067° and Indian Head, PA, 254° radials; Indian Head; to Clarion, PA.

* * * * *

V–126 [Amended]

From INT Peotone, IL, 053° and Knox, IN, 297° radials; INT Knox 297° and Goshen, IN, 270° radials; Goshen; to INT Goshen 092° and Fort Wayne, IN, 016° radials.

* * * * *

V–164 [Amended]

From Stonyfork, PA; Williamsport, PA; INT Williamsport 129° and East Texas, PA, 315° radials; to East Texas.

* * * * *

V–170 [Amended]

From Devils Lake, ND; INT Devils Lake 187° and Jamestown, ND, 337° radials; Jamestown; Aberdeen, SD; Sioux Falls, SD; to Worthington, MN. From Rochester, MN; Nodine, MN; Dells, WI; INT Dells 097° and Badger, WI, 304° radials; Badger; INT Badger 121° and Pullman, MI, 282° radials; Pullman; to Salem, MI. From Slate Run, PA; Selinsgrove, PA; Ravine, PA; INT Ravine 125° and Modena, PA, 318° radials; Modena; Dupont, DE; INT Dupont 223° and Andrews, MD, 060° radials; to INT Andrews 060° and Baltimore, MD, 165° radials. The airspace within R–5802 is excluded when active.

* * * * *

V–265 [Amended]

From INT Washington, DC, 043° and Westminster, MD, 179° radials; Westminster; Harrisburg, PA; Philipsburg, PA; to Keating, PA.

* * * * *

V–270 [Amended]

From Erie, PA; to Jamestown, NY. From Elmira, NY; Binghamton, NY; DeLancey, NY; Chester, MA; INT Chester 091° and Boston, MA, 262° radials; to Boston.

* * * * *

V–501 [Amended]

From Martinsburg, WV; Hagerstown, MD; St Thomas, PA; to Philipsburg, PA.

* * * * *

Issued in Washington, DC, on July 2, 2020.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–14475 Filed 7–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2020–0052]

RIN 1625–AA09

Drawbridge Operation Regulation; Long Creek, Nassau, NY

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is altering the operating schedule that governs the Loop Parkway Bridge across Long Creek, mile 0.7 at Nassau, New York. The bridge owner, New York State Department of Transportation (NYSDOT), submitted a request to modify bridge openings and expects that this change to the regulations will better serve the needs of the community while continuing to meet the reasonable needs of navigation.

DATES: This rule is effective August 10, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Type USCG–2020–0052 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Ms. Stephanie E. Lopez, First Coast Guard District, Project Officer, telephone 212–514–4335, email *Stephanie.E.Lopez@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On March 17, 2020, the Coast Guard published a temporary test deviation, with request for comments, entitled Drawbridge Operation Regulation; Long Creek, Nassau, NY, in the **Federal Register** (85 FR 15069) to seek comments on whether the Coast Guard should modify the current operating schedule for the Loop Parkway Bridge. The comment period for this test deviation closed on April 16, 2020, with no comments received.

On April 30, 2020, the Coast Guard published a Notice of proposed rulemaking, with a request for comments, entitled Drawbridge Operation Regulation; Long Creek, Nassau, NY in the **Federal Register** (85 FR 23933). We stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this regulatory change. During the comment period that ended June 1, 2020, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. The Loop Parkway Bridge at mile 0.7, across Long Creek, Nassau, New York, has a vertical clearance of 21 feet at mean high water and 25 feet at mean low water. Horizontal clearance is approximately 75.5 feet. The waterway users include recreational and commercial vessels, including fishing vessels.

The existing drawbridge operating regulations are listed at 33 CFR 117.799(f).

Historical Data for the NPRM and Test Deviation can be found in docket USCG–2020–0052. Based on the data that was provided by the bridge owner, the number of requested bridge openings has decreased over the years, while the vehicular traffic has increased. The schedule restricts bridge openings during vehicular rush hours, allowing openings twice per hour. This schedule allows less congestion buildup of vehicular traffic while providing mariners with a reliable, consistent time they can request a bridge opening.

IV. Discussion of Comments, Changes and the Final Rule

The Coast Guard provided a comment period of 60 days, total, between both the test deviation and the NPRM. No comments were received.

The final rule provides for commercial vessels engaged in commerce, the draw shall open Monday thru Friday from 6:20 a.m. to 9:50 a.m. and 3:20 p.m. to 7:20 p.m. on signal at 20 and 50 minutes after the hour, and

on signal at all other times. For all other vessels, the draw shall open on Monday thru Friday from 6:20 a.m. to 7:20 p.m. on signal at 20 and 50 minutes after the hour, and the draw shall open on Saturday, Sunday and Federal Holidays from 0720 to 2020 on signal at 20 and 50 minutes after the hour, and on signal at all other times. The reason for these changes is to better serve the needs of the community while continuing to meet the reasonable needs of navigation.

V. Regulatory Analyses

The Coast Guard has developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

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

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 117.799 by revising paragraph (f) to read as follows:

§ 117.799 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal.

* * * * *

(f) The draw of the Loop Parkway Bridge across Long Creek, mile 0.7, shall open for commercial vessels engaged in commerce, the draw shall open Monday thru Friday from 6:20 a.m. to 9:50 a.m. and 3:20 p.m. to 7:20 p.m. on signal at 20 and 50 minutes after the hour, and on signal at all other times. For all other vessels, the draw shall open on Monday thru Friday from 6:20 a.m. to 7:20 p.m. on signal at 20 and 50 minutes after the hour, and the draw shall open on Saturday, Sunday and Federal Holidays from 7:20 a.m. to 8:20 p.m. on signal at 20 and 50 minutes after the hour, and on signal at all other times.

* * * * *

Dated: June 22, 2020.

T.G. Allan Jr.,

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

[FR Doc. 2020–13912 Filed 7–8–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2020–0357]

Seafair Air Show Performance, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notification of non-enforcement of regulation.

SUMMARY: The Coast Guard will not enforce the safety zone for the Seafair Air Show Performance in Lake Washington, Seattle, WA in July and August 2020. The Captain of the Port Sector Puget Sound has determined that since this event is cancelled, enforcement of this regulation is not necessary.

DATES: The Coast Guard does not plan to enforce regulations in 33 CFR 165.1319 in July and August 2020.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of non-enforcement, call or email CWO2 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 normally enforces the Safety Zone in 33 CFR 165.1319 for the Seattle Seafair Air Show Performance held in Lake Washington, Seattle, WA. This event is typically held annually during last week of July and the first weeks of August. This year, the event organizers cancelled Seafair. Therefore, the Coast Guard does not plan to enforce 33 CFR 165.1319 in July or August 2020.

In addition to this notification of non-enforcement in the **Federal Register**, if the situation changes and the Captain of the Port Sector Puget Sound (COTP) determines that the regulated area needs to be enforced, the COTP will issue a Broadcast Notice to Mariners and provide actual notice of enforcement to any persons in the regulated area.

Dated: June 23, 2020.

L.A. Sturgis,

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

[FR Doc. 2020–13983 Filed 7–8–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2020–0358]

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

AGENCY: Coast Guard, DHS.

ACTION: Notification of non-enforcement of regulation.

SUMMARY: The Coast Guard will not enforce the Safety Zone for the Seattle Seafair Firework Display in Lake Washington, Seattle, WA in July 2020. The Captain of the Port Sector Puget Sound has determined that since Seafair has been cancelled in 2020, enforcement of this regulation is not necessary.

DATES: The Coast Guard does not plan to enforce the Safety Zone for the Seattle Seafair Firework Display in Lake Washington in 33 CFR 165.1332 in July 2020.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of non-enforcement, call or email CWO2 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 normally enforces the Seattle Seafair Firework Display in Lake Washington, Seattle, WA in 33 CFR 165.1332 annually during July. This year, the event organizers cancelled Seafair. Therefore, the Coast Guard does not plan to enforce the Seattle Seafair Firework Display in Lake Washington, Seattle, WA in 33 CFR 165.1332, in July 2020.

In addition to this notification of non-enforcement in the **Federal Register**, if the situation changes and the Captain of the Port Sector Puget Sound (COTP) determines that the regulated area needs to be enforced, the COTP will issue a Broadcast Notice to Mariners and provide actual notice of enforcement to any persons in the regulated area.

Dated: June 23, 2020.

L.A. Sturgis,

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

[FR Doc. 2020–13987 Filed 7–8–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2020–0354]

Regulated Navigation Area; Lake Washington, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notification of non-enforcement of regulation.

SUMMARY: The Coast Guard will not enforce the Regulated Navigation Area in Lake Washington, Seattle, WA as part of Seattle Seafair events which typically occur annually in July and August. The Captain of the Port has determined that since Seafair has been cancelled in 2020, enforcement of this regulation is not necessary.

DATES: The Coast Guard does not plan to enforce regulations in 33 CFR 165.1341 in July and August 2020.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of non-enforcement, call or email CWO2 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 normally enforces a Regulated Navigation Area in 33 CFR 165.1341 in Lake Washington, Seattle, WA annually immediately before and after the Seafair events, which usually occur during the last week in July and first two weeks of August. This year, the event organizers have cancelled Seafair. Therefore, the Coast Guard does not plan to enforce 33 CFR 165.1341, in July and August 2020.

In addition to this notification of non-enforcement in the **Federal Register**, if the situation changes and the Captain of the Port determines that the regulated area needs to be enforced, the Captain of the Port will issue a Broadcast Notice to Mariners and provide actual notice of enforcement to any persons in the regulated area.

Dated: June 23, 2020.

L.A. Sturgis,

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

[FR Doc. 2020–13988 Filed 7–8–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2020–0353]

Security Zones, Seattle's Seafair Fleet Week Moving Vessels, Puget Sound, WA

AGENCY: Coast Guard, DHS.

ACTION: Notification of non-enforcement of regulation.

SUMMARY: The Coast Guard will not enforce the security zones for Seattle's Seafair Fleet Week Moving Vessels in Puget Sound, WA in July and August 2020. The Captain of the Port Sector Puget Sound has determined that since the event is cancelled, enforcement of this regulation is not necessary.

DATES: The Coast Guard does not plan to enforce regulations in 33 CFR 165.1333 in July and August 2020.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of non-enforcement, call or email CWO2 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 normally enforces the security zones in 33 CFR 165.1333 for the Seattle Seafair Fleet Week moving vessels and parade of ships. This event is held annually during the parade of ships between July 25 and August 14. This year, the event organizers cancelled Seafair and Fleet Week. Therefore, the Coast Guard does not plan to enforce 33 CFR 165.1333, in July and August 2020.

In addition to this notification of non-enforcement in the **Federal Register**, if the situation changes and the Captain of the Port Sector Puget Sound (COTP) determines that the regulated area needs to be enforced, the COTP will issue a Broadcast Notice to Mariners and provide actual notice of enforcement to any persons in the regulated area.

Dated: June 18, 2020.

L.A. Sturgis,

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

[FR Doc. 2020–13601 Filed 7–8–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0317]

RIN 1625–AA00

Safety Zones; Northern California and Lake Tahoe Area Annual Fireworks Events, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending and establishing several permanent safety zones in the Captain of the Port San Francisco zone. This action is necessary to provide for the safety of life on the navigable waters of the San Francisco Bay, Carquinez Strait, Mare Island Strait, Sacramento River, Lake Tahoe, and Monterey Bay during annual fireworks displays. This regulation prohibits persons and vessels from entering the safety zones unless authorized by the Captain of the Port San Francisco or a designated representative.

DATES: This rule is effective August 10, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0317 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Jennae Cotton, Waterways Management, U.S. Coast Guard; telephone 415–399–3585, email *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port San Francisco
DHS Department of Homeland Security
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

Fireworks displays in 33 CFR 165.1191 are held annually on the navigable waters within the Captain of the Port San Francisco (COTP) zone. After conducting a review of the fireworks displays listed in 33 CFR 165.1191, the specifications for eight of the events listed in the table no longer accurately reflect the actual event parameters, and three annual fireworks displays are not listed in the table. In response, on March 17, 2020, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Safety Zones; Northern California and Lake Tahoe Area Annual Fireworks Events, San Francisco, CA'' (85 FR 15082). There, we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to these fireworks displays. During the comment period that ended May 18, 2020, we received one comment.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP has determined that potential hazards associated with the fireworks used in these annual displays would be a safety concern for any unauthorized vessels or persons within the safety zones during the respective fireworks displays. The purpose of this rule is to ensure safety on the navigable waters within the safety zones for the fireworks displays before, during, and after the scheduled events.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment on our NPRM published March 17, 2020. The comment requested an explanation for the variance between safety zone sizes for different fireworks displays and inquired about whether or not current COVID–19 public health orders were taken into effect when assessing the costs and benefits of this regulation.

Each fireworks display has different setup and display characteristics, designated by the fireworks display sponsor. To determine the size of the safety zone used for each fireworks display, the Coast Guard follows guidelines established by the National Fire Protection Association in relation to the largest shell size used for each fireworks display. In addition, safety zone characteristics also vary among displays depending on the pyrotechnics launch site. Fireworks displays that are

launched from a barge require an initial 100-foot safety zone beginning when the barge is being loaded with pyrotechnics. In the event of a barge-based fireworks display, the safety zone will increase from 100 feet to full size upon commencement of the fireworks display. The safety zones in this regulation have been thoroughly reviewed to ensure that proper distance is maintained from the fireworks launch site for spectator and boating safety.

The Coast Guard is amending this regulation to provide for public safety from the hazards associated with fireworks displays. While this regulation amendment is occurring during the response to COVID–19, these changes are necessary based on historical event details. The Coast Guard is aware that public health officials currently impose safety requirements intended to mitigate the spread of the coronavirus. However, a Coast Guard safety zone is not the correct tool to use to address social distancing, because a safety zone restricts movement into and within a defined zone, but does not control the movement of people or vessels outside of that zone. Changing the sizes of these safety zones would not have any effect on spectators' proximity to one another outside of the safety zone. Additionally, this regulation amends and adds safety zone details for annual fireworks displays continuing indefinitely, so the details must be accurate for these displays under normal circumstances, otherwise this regulation will not be useful in years to come. If the event sponsor or local government decides not to hold the event, the safety zones would not be enforced. Overall, the Coast Guard has assessed the costs and benefits associated with this rule, and does not find that the current response to COVID–19 changes that assessment.

There are three changes to the regulatory text of this rule from the proposed rule in the NPRM that are unrelated to the concerns raised by the commenter. The changes to the proposed text are made to item 22 ''Monte Foundation Fireworks,'' item 25 ''Sacramento New Years Eve Fireworks,'' and item 31 ''Benicia Fourth of July Fireworks,'' and they are discussed later in this section with the other changes to item 22, item 25, and item 31.

The COTP is amending Table 1 to § 165.1191. Eight fireworks displays will be amended, and three fireworks displays will be added.

The fireworks events being amended are listed numerically in Table 1 of this section as item 7, ''San Francisco Independence Day Fireworks,'' item 8, ''Fourth of July Fireworks, Berkeley Marina,'' item 9, ''Fourth of July Fireworks, City of Richmond,'' item 19, ''Red, White, and Tahoe Blue Fireworks, Incline Village, NV,'' item 22, ''Monte Foundation Fireworks,'' item 24, ''San Francisco New Years Eve Fireworks,'' item 25, ''Sacramento New Years Eve Fireworks,'' and item 27, ''Feast of Lanterns Fireworks.''

The display locations for items 7, 8, 9, 25, and 27 no longer accurately reflect the display locations for the events, so this rule inserts updated location descriptions into the table.

The display names of items 19, 24, and 25 will be updated. Item 19, ''Red, White, and Tahoe Blue Fireworks, Incline Village, NV,'' will be renamed ''Incline Village Independence Day Fireworks.'' Item 24, ''San Francisco New Years Eve Fireworks,'' and item 25, ''Sacramento New Years Eve Fireworks,'' will be updated to include an apostrophe in ''New Year's Eve.''

The display dates listed in items 22, 24, 25, and 27 do not accurately reflect the display dates for the fireworks displays, so this rule will update them as follows. Item 22, ''Monte Foundation Fireworks,'' currently states the date as the second Saturday in October, but the fireworks have occurred on the second Saturday or Sunday in October. Item 24, ''San Francisco New Years Eve Fireworks,'' currently states it occurs on New Year's Eve, but the event has typically lasted into the early hours of New Year's Day, so we are adding January 1st as a display date as well to be more accurate. A change to item 25, ''Sacramento New Years Eve Fireworks,'' not proposed in the NPRM will improve the accuracy of the date by deleting ''New Years Eve'' from the date description and adding January 1st to the display date because the display has typically lasted into the early hours of New Year's Day. Item 27, ''Feast of Lanterns Fireworks,'' currently states it occurs on the last Saturday of July, but due to the variance in the event dates, we are amending the dates to say a Saturday or Sunday in July. As stated in § 165.1191(a), the Coast Guard will provide exact dates, times, and other details concerning the fireworks and associated safety zones listed in table 1 to § 165.1191 in the Local Notice to Mariners at least 20 days prior to the event.

The Regulated Area description and Sponsor description for item 22, ''Monte Foundation Fireworks,'' will be revised. A change to item 22 not proposed in the NPRM will improve the accuracy of the regulated area by noting the regulated area will consist of a 1,000 foot radius around the launch site, instead of describing it as a 1,000 foot radius safety zone. Additionally, this rule corrects the sponsor name for this regulated area from ''Monte Foundation Fireworks'' to the ''Monte Foundation.''

This rule adds three safety zones covering three reoccurring fireworks events to Table 1 in 33 CFR 165.1191. The three new fireworks events will be listed in Table 1 of this section as item 31, ''Fourth of July Fireworks, City of Benicia,'' item 32, ''Fourth of July Fireworks, City of Vallejo,'' and item 33 ''Berkeley Winter on the Waterfront Fireworks.'' All three of these fireworks displays occurred in previous years 2017, 2018, and 2019. Both the Benicia, CA fireworks and the City of Vallejo, CA fireworks will occur annually on the Fourth of July. The Berkeley, CA fireworks displays will occur annually on the second Saturday or Sunday in December. The Coast Guard believes it is beneficial to include these additional fireworks displays in the list of reoccurring permanent regulations to increase public awareness of when safety zones will be enforced in these marine areas. No vessel or person will be permitted to enter the safety zones without obtaining permission from the COTP or a designated representative.

The Regulated Area description for item 31, ''Benicia Fourth of July Fireworks,'' will be revised to include one change from the regulatory text of the NPRM. The accuracy of the Regulated Area description will be improved by noting the regulated area will consist of a 1,000 foot radius around the launch site, instead of describing it as a 1,000 foot radius safety zone.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

from the requirements of Executive Order 13771.

This regulatory action determination is based on the limited duration and narrowly tailored geographic areas of the safety zones. Although this rule restricts access to the waters encompassed by the safety zones, the effect of this rule will not be significant because the local waterway users will be notified via public Notice to Mariners to ensure the safety zones will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zones may be small entities, for the reasons stated in section IV.A above, this rule will not have a significant economic impact on any vessel owner or operator for the following reasons: (i) This rule will encompass only a small portion of each affected waterway for a limited period of time for each fireworks event, and (ii) the maritime public will be advised in advance of these safety zones via Notice to Mariners.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves safety zones of limited sizes and durations. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 165.1191, amend Table 1 by revising entries 7, 8, 9, 19, 22, 24, 25, and 27, and add entries 31, 32, and 33 to read as follows:

§ 165. 1191 Northern California and Lake Tahoe Area Annual Fireworks Events.

TABLE 1 TO § 165.1191

* * * * * * *

7. San Francisco Independence Day Fireworks

Sponsor	The City of San Francisco.
Event Description	Fireworks Display.
Date	July 4th.
Location 1	A barge located approximately 1,000 feet off San Francisco Pier 39.
Location 2	A barge located approximately 700 feet off of the San Francisco Municipal Pier at Aquatic Park.
Regulated Area	100-foot radius around each fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 1,000-foot radius upon commencement of the fireworks display.

8. Fourth of July Fireworks, Berkeley Marina

Sponsor	Berkeley Marina.
Event Description	Fireworks Display.
Date	July 4th.
Location	A barge located near the Berkeley Marina Pier.
Regulated Area	100-foot radius around the fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 1,000-foot radius upon commencement of the fireworks display.

9. Fourth of July Fireworks, City of Richmond

Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	A barge located in the Richmond Harbor in Richmond, CA.
Regulated Area	100-foot radius around the fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 560-foot radius upon commencement of the fireworks display.

* * * * * * *

19. Incline Village Independence Day Fireworks

Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	500–1,000 feet off Incline Village, NV in Crystal Bay.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

* * * * * * *

22. Monte Foundation Fireworks

Sponsor	Monte Foundation.
Event Description	Fireworks Display.
Date	Second Saturday or Sunday in October.
Location	Capitola Pier in Capitola, CA.
Regulated Area	1,000-foot radius around the fireworks launch site in the navigable waters around and under the Capitola Pier.

* * * * * * *

24. San Francisco New Year's Eve Fireworks

Sponsor	City of San Francisco.
Event Description	Fireworks Display.
Date	December 30th through January 1st.
Location	1,000 feet off the Embarcadero near the Ferry Plaza in San Francisco, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

25. Sacramento New Year's Eve Fireworks

Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	December 31st through January 1st.
Location	Near the Tower Bridge, Sacramento River, Sacramento, CA.

TABLE 1 TO § 165.1191—Continued

Regulated Area	The navigable waters of the Sacramento River within 700 feet of the two shore-based launch locations near the Tower Bridge in Sacramento, CA and the bridge-based launch location on the Tower Bridge in Sacramento, CA.

* * * * * * *

27. Feast of Lanterns Fireworks

Sponsor	Feast of Lanterns, Inc.
Event Description	Fireworks Display.
Date	A Saturday or Sunday in July.
Location	Near Lover's Point Park in Pacific Grove, CA.
Regulated Area	The area of navigable waters within a 1,000-foot radius of the launch platform located on the beach near Lover's Point Park.

* * * * * * *

31. Benicia Fourth of July Fireworks

Sponsor	City of Benicia, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Carquinez Strait, Benicia, CA.
Regulated Area	1,000-foot radius around the fireworks launch site located on the Benicia First Street Pier.

32. Vallejo Fourth of July Fireworks

Sponsor	City of Vallejo, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Mare Island Strait, Vallejo, CA.
Regulated Area	100-foot radius around the fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 1,000-foot radius upon commencement of the fireworks display.

33. Berkeley Winter on the Waterfront Fireworks

Sponsor	City of Berkeley, CA.
Event Description	Two Fireworks Displays.
Date	Second Saturday or Sunday in December.
Location	Near the entrance to the Berkeley Marina in Berkeley, CA.
Regulated Area	100-foot radius around the fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 500-foot radius upon commencement of the first fireworks display and remains in effect until after the conclusion of the second fireworks display.

Dated: June 23, 2020.

Marie B. Byrd,

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

[FR Doc. 2020–13995 Filed 7–8–20; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R07–OAR–2020–0155; FRL–10010–76–Region 7]

Air Plan Approval; Missouri and Kansas; Determination of Attainment for the Jackson County, Missouri 1-Hour Sulfur Dioxide Nonattainment Area and Redesignation of the Wyandotte County, Kansas Unclassifiable Area to Attainment/Unclassifiable

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to determine that the Jackson County, Missouri 1-hour (1-hr) Sulfur Dioxide (SO_2) National Ambient Air Quality Standard (NAAQS) Nonattainment Area has attained the NAAQS and to redesignate the Wyandotte County, Kansas 1-hr SO_2 NAAQS Unclassifiable Area as Attainment/Unclassifiable. Both final action decisions are based on air quality monitoring and modeling data.

DATES: This final rule is effective on July 9, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2020–0155. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Steven Brown, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7718; email address *brown.steven@epa.gov.*

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

Table of Contents

I. What is being addressed in this document?
II. The EPA's Response to Comments
III. What action is the EPA taking?
IV. Statutory and Executive Order Reviews

I. What is being addressed in this document?

This document takes final action on the Missouri Department of Natural Resources' (MoDNR) May 4, 2018 request asking the EPA to make a determination that the Jackson County, Missouri (hereby referred to as the ''Jackson County area'') Nonattainment Area has attained the 2010 1-hr primary SO_2 NAAQS.

This document also takes final action to redesignate the Wyandotte County, Kansas 1-hr SO_2 NAAQS unclassifiable area (hereinafter referred to as the ''Wyandotte County area'') to attainment/unclassifiable based on a January 10, 2017 request from the Kansas Department of Health and Environment (KDHE). Detailed information regarding these actions can be found in the proposed rule, 85 FR 20896, published April 15, 2020 in the **Federal Register** and in this docket.

II. The EPA's Response to Comments

The public comment period on the EPA's proposed rule opened April 15, 2020, the date of its publication in the **Federal Register** and closed on May 15, 2020. During this period, the EPA received one comment. This comment is not substantive and does not require a response from the EPA.

III. What action is the EPA taking?

The EPA is taking final action to determine that the Jackson County 2010 1-hr primary SO_2 nonattainment area, in Missouri, has attained the 2010 1-hr primary SO_2 NAAQS. This final determination of attainment is based on a May 2018 request from the Missouri Department of Natural Resources (MoDNR) asking the EPA to consider complete, quality assured, and certified ambient air monitoring data from the 2015–2017 monitoring period and make a determination that the area has attained the 2010 1-hr primary SO_2 NAAQS.

The EPA is also taking final action to a January 2017 request from the Kansas Department of Health and Environment (KDHE) to redesignate the Wyandotte County, Kansas 1-hr SO_2 NAAQS unclassifiable area to attainment/unclassifiable. The EPA's redesignation of the Wyandotte County area is based on air quality dispersion modeling submitted by the KDHE and supplemented by modeling analysis from the MoDNR for the Jackson County area. The relationship between the MoDNR's modeling analysis and the Wyandotte County area is explained in more detail in the ''What is the EPA's Analysis of the Information Submitted by the States?'' and ''Connection to the Jackson County Clean Data Modeling'' sections of the proposed rule, 85 FR 20896, published April 15, 2020. The EPA has made the monitoring and modeling data available in the docket to this rulemaking through *www.regulations.gov.*

IV. Statutory and Executive Order Reviews

This action makes a determination based on air quality monitoring data and modeling and results in the suspension of certain Federal requirements and does not impose any additional requirements.

With regard to the redesignation portion of this action, under the Clean Air Act (CAA), redesignation of an area to attainment/unclassifiable is an action that affects the air quality designation status of geographical areas and does not impose any regulatory requirements. For these reasons, this final 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 it is not a significant regulatory action under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This action does not apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the action 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, Clean data determination, Determination of attainment, Incorporation by reference, Redesignation, Reporting and recordkeeping requirements, Sulfur dioxide.

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: June 16, 2020.

James Gulliford,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA amends 40 CFR parts 52 and 81 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart—AA Missouri

■ 2. In § 52.1343, revise paragraph (b) to read as follows:

§ 52.1343 Control strategy: Sulfur dioxide.

* * * * *

(b) *Determination of attainment.* EPA has determined, as of July 9, 2020, that the Jackson County 2010 SO_2 nonattainment has attained the 2010 SO_2 1-hr NAAQS. This determination suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, reasonable further progress, contingency measures, and other plan elements related to attainment of the standards for as long as the area continues to meet the 2010 SO_2 1-hr NAAQS.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 3. The authority citation for part 81 continues to read as follows:

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

Subpart C—Section 107 Attainment Status Designations

■ 4. In § 81.317, the table titled ''Kansas-2010 Sulfur Dioxide NAAQS [Primary]'' is amended by revising the entry ''Wyandotte County, KS'' to read as follows:

§ 81.317 Kansas.

* * * * *

KANSAS—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area [1]	Designation	
	Date [2]	Type
* * * *	*	* *
Wyandotte County, KS	July 9, 2020	Attainment/Unclassifiable.
* * * *	*	* *

[1] Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

[2] This date is April 9, 2018, unless otherwise noted.

* * * * *

[FR Doc. 2020–13376 Filed 7–8–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2020–0005; Internal Agency Docket No. FEMA–8635]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *https://www.fema.gov/national-flood-insurance-program-community-status-book.*

DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Adrienne L. Sheldon, PE, CFM, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW, Washington, DC 20472, (202) 674–1087.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are

met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. FEMA has determined that the community suspension(s) included in this rule is a non-discretionary action and therefore the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) does not apply.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Pennsylvania:				
Bethel, Township of, Lebanon County ..	420967	January 23, 1974, Emerg; September 30, 1981, Reg; July 8, 2020, Susp.	July 8, 2020	July 8, 2020.
Cleona, Borough of, Lebanon County ...	420571	March 9, 1973, Emerg; April 1, 1977, Reg; July 8, 2020, Susp.	.....do*	Do.
Cornwall, Borough of, Lebanon County	420968	April 17, 1973, Emerg; August 5, 1985, Reg; July 8, 2020, Susp.	.....do	Do.
East Hanover, Township of, Lebanon County.	421012	April 10, 1973, Emerg; August 15, 1979, Reg; July 8, 2020, Susp.	.....do	Do.
Heidelberg, Township of, Lebanon County.	420969	August 27, 1973, Emerg; January 20, 1982, Reg; July 8, 2020, Susp.	.....do	Do.
Jonestown, Borough of, Lebanon County.	420572	December 29, 1972, Emerg; December 4, 1979, Reg; July 8, 2020, Susp.	.....do	Do.
Lebanon, City of, Lebanon County	420573	January 26, 1973, Emerg; December 4, 1979, Reg; July 8, 2020, Susp.	.....do	Do.
Millcreek, Township of, Lebanon County.	420574	August 27, 1973, Emerg; November 18, 1983, Reg; July 8, 2020, Susp.	.....do	Do.
Mount Gretna, Borough of, Lebanon County.	421851	June 7, 1974, Emerg; November 30, 1978, Reg; July 8, 2020, Susp.	.....do	Do.
Myerstown, Borough of, Lebanon County.	420575	August 27, 1973, Emerg; July 5, 1977, Reg; July 8, 2020, Susp.	.....do	Do.
North Cornwall, Township of, Lebanon County.	420576	March 16, 1973, Emerg; January 2, 1981, Reg; July 8, 2020, Susp.	.....do	Do.
North Londonderry, Township of, Lebanon County.	420577	August 29, 1973, Emerg; September 28, 1979, Reg; July 8, 2020, Susp.	.....do	Do.
Palmyra, Borough of, Lebanon County	420578	February 15, 1974, Emerg; May 26, 1978, Reg; July 8, 2020, Susp.	.....do	Do.
South Lebanon, Township of, Lebanon County.	420581	March 16, 1973, Emerg; December 15, 1981, Reg; July 8, 2020, Susp.	.....do	Do.
South Londonderry, Township of, Lebanon County.	421043	February 15, 1974, Emerg; March 4, 1986, Reg; July 8, 2020, Susp.	July 8, 2020	July 8, 2020.
Swatara, Township of, Lebanon County	420582	August 9, 1973, Emerg; December 1, 1981, Reg; July 8, 2020, Susp.	.....do	Do.
West Cornwall, Township of, Lebanon County.	420583	March 23, 1973, Emerg; December 14, 1979, Reg; July 8, 2020, Susp.	.....do	Do.

*.....do = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Katherine B. Fox,
Assistant Administrator for Mitigation, Federal Insurance and Mitigation Administration—FEMA Resilience,Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2020–14380 Filed 7–8–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 200706–0177]

RIN 0648–BJ92

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to revise regulations for the commercial individual fishing quota (IFQ) Pacific halibut (halibut) fisheries for the 2020 IFQ fishing year. This final rule removes limits on the maximum amount of halibut IFQ that may be harvested by a vessel, commonly known as vessel use caps, in IFQ regulatory areas 4B (Aleutian Islands), 4C (Central Bering Sea), and 4D (Eastern Bering Sea). This final rule is necessary because immediate action is needed to ensure allocations of halibut IFQ can be harvested by the limited number of vessels operating in these areas due to travel restrictions and health mandates. This action is within the authority of the Secretary of Commerce to establish additional regulations governing the taking of halibut which are in addition to, and not in conflict with, those adopted by the International Pacific Halibut Commission (IPHC). This emergency rule is intended to promote the goals and objectives of the IFQ Program, the Northern Pacific Halibut Act of 1982, and other applicable laws.

DATES: Effective July 8, 2020, through December 31, 2020.

ADDRESSES: Electronic copies of the Regulatory Impact Review (RIR), also referred to as the Analysis, prepared for this final rule are available from *http://www.regulations.gov* or from the NMFS Alaska Region website at *http://alaskafisheries.noaa.gov.*

Additional requests for information regarding halibut may be obtained by contacting the International Pacific Halibut Commission, 2320 W Commodore Way, Suite 300, Seattle, WA 98199–1287; or Sustainable Fisheries Division, NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802; Sustainable Fisheries Division.

FOR FURTHER INFORMATION CONTACT: Glenn Merrill, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Authority for Action

The IPHC and NMFS manage fishing for halibut through regulations established under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC promulgates regulations governing the halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention). The IPHC's regulations are subject to approval by the Secretary of State with the concurrence of the Secretary of Commerce (Secretary). NMFS publishes the IPHC's regulations as annual management measures pursuant to 50 CFR 300.62. The 2020 IPHC annual management measures were implemented on March 13, 2020 (85 FR 14586). Subsequently, the IPHC recommended limited revisions to the 2020 annual management measures. The Secretary of State, with the concurrence of the Secretary of Commerce, accepted these revised measures and published revised regulations on June 19, 2020 (85 FR 37023).

The Halibut Act, 16 U.S.C. 773c(a) and (b), provides the Secretary with general responsibility to carry out the Convention and the Halibut Act. The Halibut Act, 16 U.S.C. 773c(c), also provides the North Pacific Fishery Management Council (Council) with authority to develop regulations, including limited access regulations, that are in addition to, and not in conflict with, approved IPHC regulations. Regulations recommended by the Council may be implemented by NMFS only after approval by the Secretary.

The Council has exercised this authority in developing halibut management programs for the subsistence, sport, and commercial halibut fisheries. The Secretary exercised its authority to implement the commercial IFQ halibut fishery management program (58 FR 59375; November 9, 1993). The IFQ Program for the halibut fishery is implemented by Federal regulations at 50 CFR part 679. The IFQ Program for the sablefish fishery is implemented by the Bering Sea and Aleutian Islands (BSAI) Fishery Management Plan (FMP) and Federal regulations at 50 CFR part 679 under the authority of section 303(b) of the Magnuson-Stevens Fishery Conservation and Management Act.

The halibut IFQ fishery is managed in specific areas defined by the IPHC. These IFQ regulatory areas (Areas) are: Area 2A (California, Oregon, and Washington); Area 2B (British Columbia); Area 2C (Southeast Alaska), Area 3A (Central Gulf of Alaska), Area 3B (Western Gulf of Alaska), and Area 4 (subdivided into five areas, 4A through 4E, in the Bering Sea and Aleutian Islands of Western Alaska). These Areas are described at 50 CFR part 679, Figure 15. NMFS also allocates halibut to the Western Alaska Community Development Quota (CDQ Program) in Areas 4B, 4C, 4D, and 4E (§ 679.31(a)(2)). Halibut is allocated to the CDQ Program in Areas 4B, 4C, 4D, and 4E and those allocations are not subject to a vessel use cap. Throughout this preamble, the term ''vessel use cap'' refers to regulations applicable to the halibut IFQ fishery.

Background

This final rule implements regulations to remove vessel use caps in Areas 4B, 4C, and 4D. The IPHC has not recommended regulations to establish vessel use caps in Areas off Alaska (Areas 2C through 4). The existing vessel use caps were recommended by the Council and implemented by NMFS as part of the IFQ Program (58 FR 59375; November 9, 1993) as regulations that are in addition to, and not in conflict with, those adopted by the IPHC, consistent with the Halibut Act (16 U.S.C. 773c(c)).

The following sections describe the IFQ Program, halibut IFQ vessel use caps, the rationale and effects of temporarily removing vessel use caps in Areas 4B, 4C, and 4D, and the regulations implemented under this final rule.

IFQ Program

Commercial halibut and sablefish fisheries in Alaska are subject to regulation under the IFQ Program and the CDQ Program (50 CFR part 679). A key objective of the IFQ Program is to support the social and economic character of the fisheries and the coastal fishing communities where many of these fisheries are based. For more information about the IFQ Program, please refer to Section 2.3.1 of the Analysis. Because this rule is specific to the halibut IFQ fishery, reference to the IFQ Program in this preamble is specific to halibut unless otherwise noted.

Under the IFQ Program, access to the commercial halibut fisheries is limited to those persons holding quota share (QS). Quota share is an exclusive, revocable privilege that allows the holder to harvest a specific percentage of the annual commercial catch limit in the halibut fishery. In addition, QS is designated for specific geographic areas of harvest, a specific vessel operation type (catcher vessel (CV) or catcher/processor), and for a specific range of vessel sizes that may be used to harvest the sablefish or halibut (vessel category). Out of the four vessel categories of halibut QS category A shares are designated for catcher/processors, include vessels that process their catch at sea (*i.e.,* freezer longline vessels), and do not have a vessel length designation whereas, Category B, C, and D shares are designated to be fished on CVs that meet specific length designations (§ 679.40(a)(5)).

NMFS annually issues IFQ permits to each QS holder. An annual IFQ permit authorizes the permit holder to harvest a specified amount of the IFQ species in an Area from a specific operation type and vessel category. IFQ is expressed in pounds (lb) and is based on the amount of QS held in relation to the total QS pool for each Area with an assigned catch.

The IFQ Program established: (1) Limits on the maximum amount of QS that a person could use (*i.e.,* be used to receive annual IFQ) (§ 679.42(f)); (2) limits on the number of small amounts of indivisible QS units, known as QS blocks, that a person can hold (§ 679.42(g)); (3) limits on the ability of IFQ assigned to one CV vessel category (*i.e.,* vessel category B, C, or D IFQ) to be fished on a different (*i.e.,* larger) vessel category with some limited exceptions (§ 679.42(a)(2)); and (4) limits on the maximum amount of halibut IFQ that may be harvested by a vessel during an IFQ fishing year (§ 679.42(h)). All of these limitations were established to retain the owner-operator nature of the CV halibut IFQ fisheries, limit consolidation of QS, and ensure the annual IFQ is not harvested on a small number of larger vessels. In addition, the IFQ Program includes transfer restrictions to retain the owner-operator nature of the CV halibut IFQ fisheries. Only qualified individuals and initial recipients of QS are eligible to hold CV QS and they are required to be on the vessel when the IFQ is being fished, with a few limited exceptions (§ 679.41(h)(2)).

On June 25, 2020, NMFS published an emergency rule to modify the temporary transfer provision of the IFQ Program for the commercial halibut and sablefish fisheries for the 2020 IFQ fishing year (85 FR 38100). That emergency rule allows QS holders to transfer IFQ to otherwise eligible recipients. This transfer flexibility promotes the complete and efficient harvest of the IFQ fisheries. Furthermore, the rule temporarily alleviates unforeseen economic and social consequences stemming from recent restrictions on the IFQ fisheries that are detailed in the rule's preamble (85 FR 38100). That emergency rule does not modify other provisions of the IFQ Program. That emergency rule facilitates the transfer of IFQ to fishery participants and allows additional harvest opportunities, but it does not relieve any vessel use caps that may constrain fishing operations.

Halibut IFQ Vessel Use Caps

The IFQ Program established vessel use caps to limit the maximum amount of halibut that could be harvested on any one vessel to help ensure that a diversity of vessels were engaged in the halibut fishery, to prevent the possibility of the IFQ fishery being conducted from a small number of vessels, and to address concerns about the socio-economic impacts of consolidation under the IFQ Program. For additional detail on vessel use caps, see the preamble to the proposed rule for the IFQ Program (57 FR 57130; December 3, 1992).

This final rule refers to halibut catch limits, commercial halibut allocations, and vessel use caps in net pounds or net metric tons. Net pounds and net metric tons are defined as the weight of halibut from which the gills, entrails, head, and ice and slime have been removed. This terminology is used in this final rule to be consistent with the IPHC, which establishes catch limits and calculates mortality in net pounds.

Relevant to this final rule, regulations at § 679.42(h)(1) state that ''No vessel may be used, during any fishing year, to harvest more IFQ halibut than one-half percent of the combined total catch limits of halibut for IFQ regulatory areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E''. Applying this regulation to 2020, yields a vessel use cap of 80,396 lbs (36.5 mt). This vessel use cap applies to vessels harvesting IFQ halibut in Areas 4B, 4C and 4D.

In addition, regulations at § 679.42(h)(1)(ii) state that ''No vessel may be used, during any fishing year, to harvest more than 50,000 lb (22.7 mt) of IFQ halibut derived from QS held by a CQE.'' Compared to the § 679.42(h)(1) vessel use cap, § 679.42(h)(1)(ii) imposes an even more restrictive vessel use cap to vessels that are harvesting IFQ halibut derived from QS held by a community quota entity (CQE). A CQE is a NMFS-approved non-profit organization that represents a small, remote, coastal communities that meet specific criteria to purchase and hold CV halibut QS on behalf of an eligible community. The CQE holds QS and leases the IFQ derived from the underlying QS to community residents. Relevant to this final rule, a CQE is authorized to hold halibut QS in Area 4B on behalf of the community of Adak, Alaska (79 FR 8870; February 14, 2014). Any vessel harvesting halibut IFQ derived from the QS held by the Adak CQE is subject to this more restrictive 50,000 lb (22.7 mt) vessel use cap.

Rationale and Effects of Temporarily Removing Vessel Use Caps in Areas 4B, 4C, and 4D

On May 15, 2020, the Council held a special meeting to consider, among other things, requests from IFQ fishery stakeholders to remove vessel use caps applicable to the halibut and sablefish IFQ fisheries. These requests, and the May 15, 2020 special meeting of the Council were prompted by challenges posed by travel restrictions and health mandates (See Sections 1 and 2.3 of the Analysis).

The Council recommended, and NMFS issues this final rule after considering a range of factors. These factors include, but are not limited to:

- The unforeseen complications that government-issued travel restrictions and health mandates imposed on fishing operations in the 2020 fishing year, particularly in the remote BSAI halibut IFQ fishery. These restrictions and mandates may restrict the ability for vessels and crew to operate and fully harvest their IFQ (Sections 2.3 and 2.5 of the Analysis);
- The relatively large proportion of vessels participating in the Area 4B, 4C, and 4D halibut IFQ fishery that are operating near the current vessel use cap, thereby limiting the amount of ''headroom'' available to accommodate additional IFQ if it is transferred to persons eligible to harvest IFQ on vessels operating in those Areas (Section 2.3 of the Analysis);
- The minimum number of vessels required to fully harvest the IFQ held by the affected CQE exceeds the number of vessels owned by residents of the community (Sections 2.3.8 and 2.5 of the Analysis);
- Reduced ex-vessel prices due to poor market conditions that may further limit the number of vessels that can economically harvest their halibut IFQ in Areas 4B, 4C, and 4D (Sections 2.3 and 2.3.9 of the Analysis);

• Local quarantine or other health measures at specific remote ports in Areas 4B, 4C, or 4D (*e.g.,* Saint Paul, Alaska located in Area 4C) that may further limit the ability of smaller vessels to operate because processing facilities and vessel services are not available (Section 2.3 of the Analysis).

The reader is referred to the Analysis, particularly Sections 2.3 and 2.5, for additional detail on the range of factors considered and the anticipated effects of removing the vessel use caps in Areas 4B, 4C, and 4D for both CQE-associated vessels and non-CQE-associated vessels.

After reviewing these factors, the Council recommended ''emergency action'' to remove vessel use caps for the halibut IFQ fishery in Areas 4B, 4C, and 4D. Although the Council recommended emergency action, NMFS is implementing the Council's recommendation with this final rule because there is no specific emergency action authority in the Halibut Act.

The Council did not recommend, and this final rule does not include, measures to relieve the vessel use caps for the sablefish IFQ fishery, or for other halibut Areas due to the larger number of vessels that are currently active in the sablefish IFQ fishery and these other halibut Areas, and information indicating that halibut harvests in these other Areas would not be constrained under the current vessel use caps (Section 2.3.5 of the Analysis).

The Council and NMFS also considered the potential impacts on halibut conservation and management if vessel use caps vessels in Areas 4B, 4C, and 4D are relieved for the 2020 IFQ fishing year. This final rule removes vessel use caps in specific Areas (Areas 4B, 4C, and 4D) because the vessel use caps may restrict the harvest of halibut in these Areas, and less restrictive management measures are needed immediately to ensure the more complete harvest of the halibut resource during the 2020 IFQ fishing year. This final rule is responsive to the unforeseen circumstances in the fishery in 2020 and does not modify the vessel use cap provisions in future years consistent with the Council's goals in implementing vessel use caps in this fishery. This final rule would not modify other elements of the IFQ Program. This final rule would not increase or otherwise modify the 2020 halibut catch limits adopted by the IPHC and implemented by NMFS (85 FR 14586, March 13, 2020). This final rule would not modify any other conservation measure recommended by the IPHC and adopted by NMFS, nor any other conservation measure implemented by NMFS independent of the IPHC. This final rule would not modify other limitations on the use of QS and IFQ described in the previous sections of this preamble.

Regulations Implemented Under This Final Rule

After considering the best available information, the Convention, the status of the halibut resource, and the potential social and economic costs of the maintaining the vessel use cap limits described in this preamble, this final rule adds a new provision at 50 CFR 679.41(h)(1)(iii) to remove vessel use caps for vessels harvesting IFQ halibut in Areas 4B, 4C, and 4D during the 2020 IFQ fishing year. This final rule applies to vessels harvesting IFQ halibut for the CQE in Area 4B as well as other vessels harvesting IFQ halibut in Area 4B, 4C, and 4D.

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the International Pacific Halibut Commission (IPHC), the Pacific Fishery Management Council, the North Pacific Fishery Management Council (Council), and the Secretary of Commerce. Section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. The final action is consistent with the Council's authority to allocate halibut catches among fishery participants in the waters in and off Alaska.

This final rule is consistent with the objective of the Convention to develop the stocks of halibut of the Northern Pacific Ocean and Bering Sea to levels that will permit the optimum yield from that fishery, and to maintain the stocks at those levels. The Council and NMFS considered the best available information for the management measures implemented by this final rule.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. Without adoption of this final rule, the halibut catch limits in Areas 4B, 4C and 4D may not be fully harvested based on the best available information. Further, it is imperative to publish these regulations as soon as possible during the 2020 IFQ fishing year to allow for the greatest opportunity for IFQ holders to coordinate with vessel operators to ensure that the halibut IFQ allocations in Areas 4B, 4C, and 4D are fully harvested. Because of the timing of the 2020 halibut IFQ fishery, which began on March 14, 2020, and ends on November 15, 2020, it is impracticable to complete rulemaking during the 2020 halibut fishery with a public review and comment period. This final rule implements provisions to remove vessel use caps in Areas 4B, 4C, and 4D consistent with the recommendations made by the Council at its special meeting that concluded on May 15, 2020. NMFS must ensure that the prosecution of a fishery would not result in substantial harm to the halibut resource that could occur if the additional time necessary to provide for prior notice and comment and agency processing delayed the effectiveness of this action beyond its publication in the **Federal Register**.

There also is good cause under 5 U.S.C. 553(d)(3) to make the rule effective immediately upon filing with the Office of the Federal Register. These management measures must be effective upon the final rule's publication in the **Federal Register** because the 2020 halibut IFQ fishery was opened on March 14, 2020, and closes on November 15, 2020. Similar to the reasoning of waiving prior notice and comment, a longer effective period maximizes these measures' beneficial economic effects and reduces harm to the fishery resource. Conversely, a 30-day cooling off period will shorten and reduce these measure's economic and fishery resource benefits because the benefits are only realized during the remainder of the 2020 fishing year. These management measures are necessary to prevent substantial harm to the halibut resource. Accordingly, it is impracticable and contrary to the public interest to delay for 30 days the effective date of this rule. Therefore, good cause exists to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), and to make the rule effective upon filing with the Office of the Federal Register.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553(b)(B), or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are inapplicable.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: July 6, 2020.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 2. In 679.42, add paragraph (h)(1)(iii) to read as follows:

§ 679.42 Limitations on use of QS and IFQ.

* * * * *

(h) * * *

(1) * * *

(iii) Notwithstanding the vessel use caps specified in paragraphs (h)(1) introductory text and (h)(1)(ii) of this section, vessel use caps do not apply to vessels harvesting IFQ halibut in IFQ regulatory areas 4B, 4C, and 4D during the 2020 IFQ fishing year.

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[FR Doc. 2020–14831 Filed 7–8–20; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 132
Thursday, July 9, 2020

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

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 208

RIN 1615–AC57

[Docket No: USCIS 2020–0013]

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Part 1208

[A.G. Order No. 4747–2020]

RIN 1125–AB08

Security Bars and Processing

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security (''DHS''); Executive Office for Immigration Review, Department of Justice (''DOJ'').

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend existing DHS and DOJ (collectively, ''the Departments'') regulations to clarify that the Departments may consider emergency public health concerns based on communicable disease due to potential international threats from the spread of pandemics when making a determination as to whether ''there are reasonable grounds for regarding [an] alien as a danger to the security of the United States'' and, thus, ineligible to be granted asylum or the protection of withholding of removal in the United States under Immigration and Nationality Act (''INA'') sections 208 and 241 and DHS and DOJ regulations. The proposed rule also would provide that this application of the statutory bars to eligibility for asylum and withholding of removal will be effectuated at the credible fear screening stage for aliens in expedited removal proceedings in order to streamline the protection review process and minimize the spread and possible introduction into the United States of communicable and widespread disease. The proposed rule further would allow DHS to exercise its prosecutorial discretion regarding how to process individuals subject to expedited removal who are determined to be ineligible for asylum in the United States on certain grounds, including being reasonably regarded as a danger to the security of the United States. Finally, the proposed rule would modify the process for evaluating the eligibility of aliens for deferral of removal who are ineligible for withholding of removal as presenting a danger to the security of the United States.

DATES: Comments must be submitted on or before August 10, 2020.

ADDRESSES: You may submit comments, identified by Docket Number USCIS 2020–0013 through the *Federal eRulemaking Portal: http://www.regulations.gov*. If you cannot submit your material using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

FOR FURTHER INFORMATION CONTACT:

FOR USCIS: Andrew Davidson, Asylum Division Chief, Refugee, Asylum and International Affairs Directorate, U.S. Citizenship and Immigration Services, DHS; telephone 202–272–8377 (not a toll-free call).

For EOIR: Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, telephone (703) 305–0289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this rule. The Departments also invite comments that relate to the potential economic or federalism effects of this rule. To provide the most assistance to the Departments, comments should reference a specific portion of the rule; explain the reason for any recommended change; and include data, information, or authority that supports the recommended change. Comments received will be considered and addressed in the process of drafting the final rule.

All comments submitted for this rulemaking should include the agency name and Docket Number USCIS 2020–0013. Please note that all comments received are considered part of the public record and made available for public inspection at *http://www.regulations.gov.* Such information includes personally identifiable information (such as a person's name, address, or any other data that might personally identify that individual) that the commenter voluntarily submits.

II. Executive Summary

The Departments seek to mitigate the risk of a deadly communicable disease being brought to the United States, or being further spread within the country. Thus, the Departments propose making four fundamental and necessary reforms to the Nation's immigration system: (1) Clarifying that the ''danger to the security of the United States'' bars to eligibility for asylum and withholding of removal apply in the context of public health emergencies related to the possible threat of introduction or further spread of international pandemics into the United States; (2) making these bars applicable in ''credible fear'' screenings in the expedited removal process so that aliens subject to the bars can be expeditiously removed; (3) streamlining screening for deferral of removal eligibility in the expedited removal process to similarly allow for the expeditious removal of aliens ineligible for deferral; and (4) as to aliens determined to be ineligible for asylum and withholding of removal as dangers to the security of the United States during credible fear screenings but who nevertheless affirmatively establish that torture in the prospective country of removal is more likely than not, restoring DHS's discretion to either place the aliens into removal proceedings under section 240 of the INA (''240 proceedings''), 8 U.S.C. 1229a, or remove them to third countries where they would not face persecution or torture—to allow for the expeditious removal of aliens whose entry during a serious public health emergency would represent a danger to the security of the United States on public health grounds.

The amendments made by this proposed rule would apply to aliens who enter the United States after the effective date, except that the amendments would not apply to aliens who had before the date of the

applicable designation (1) affirmatively filed asylum and withholding applications, or (2) indicated a fear of return in expedited removal proceedings.

III. Background

A. Pandemics

The Centers for Disease Control and Prevention (''CDC'') has stated that: ''A pandemic is a global outbreak of disease. Pandemics happen when a new virus emerges to infect people and can spread between people sustainably. Because there is little to no pre-existing immunity against the new virus, it spreads worldwide.'' [1] Of the twentieth century's three pandemics involving influenza, the 1918 pandemic killed up to 50 million persons around the world and up to 675,000 in the United States; the 1957 pandemic killed approximately 2 million and 70,000, respectively; and the 1968 pandemic killed approximately 1 million and 34,000, respectively.[2] The White House's Homeland Security Council (''HSC'') projected in 2006 that ''a modern pandemic could lead to the deaths of 200,000 to 2 million U.S. citizens'' [3] and further explained that:

> A pandemic . . . differ[s] from most natural or manmade disasters in nearly every respect. Unlike events that are discretely bounded in space or time, a pandemic will spread across the globe over the course of months or over a year, possibly in waves, and will affect communities of all sizes and compositions. The impact of a severe pandemic may be more comparable to that of a widespread economic crisis than to a hurricane, earthquake, or act of terrorism. It may . . . overwhelm the health and medical infrastructure of cities and have secondary and tertiary impacts on the stability of institutions and the economy. These consequences are impossible to predict before a pandemic emerges because the biological characteristics of the virus and the impact of our interventions cannot be known in advance.[4]

The HSC further warned that:

> The economic and societal disruption of [an influenza] . . . pandemic could be significant. Absenteeism across multiple sectors related to personal illness, illness in family members, fear of contagion, or public health measures to limit contact with others could threaten the functioning of critical infrastructure, the movement of goods and services, and operation of institutions such as schools and universities. A pandemic would thus have significant implications for the economy, national security, and the basic functioning of society.[5]

Then-Secretary of Homeland Security Michael Chertoff similarly stated in 2006 that ''[a] severe pandemic . . . may affect the lives of millions of Americans, cause significant numbers of illnesses and fatalities, and substantially disrupt our economic and social stability.'' [6] In addition, components of the U.S. military have indicated that the global spread of pandemics can impact military readiness, thus posing a direct threat to U.S. national security. *See* Diane DiEuliis & Laura Junor, *Ready or Not: Regaining Military Readiness During COVID19,* Strategic Insights, U.S. Army Europe (Apr. 10, 2020), *https://www.eur.army.mil/COVID-19/COVID19Archive/Article/2145444/ready-or-not-regaining-military-readiness-during-covid19/* (discussing the spread within the military of twentieth-century pandemics and consequences of the spread this year of COVID–19). For example, the military noted that the risk of further spread of COVID–19 this year has led to the cancellation or reduction of various large-scale military exercises and a 60-day stop-movement order. *See id.*

B. COVID–19

Fears regarding the effects of a catastrophic global pandemic have unfortunately been realized in the emergency of COVID–19, a communicable disease caused by a novel (new) coronavirus, SARS-CoV–2, that was first identified as the cause of an outbreak of respiratory illness in Wuhan, Hubei Province, in the People's Republic of China (''PRC'').[7] COVID–19 spreads easily and sustainably within communities, primarily by person-to-person contact through respiratory droplets; it may also transfer through contact with surfaces or objects contaminated with these droplets when people touch such surfaces and then touch their own mouths, noses, or, possibly, their eyes.[8] There is also evidence of pre-symptomatic and asymptomatic transmission, in which an individual infected with COVID–19 is capable of spreading the virus to others before, or without ever, exhibiting symptoms.[9] COVID–19's ease of transmission presents a risk of a surge in hospitalizations, which has been identified as a likely contributing factor to COVID–19's high mortality rate in countries such as Italy and the PRC.[10]

Symptoms of COVID–19 include fever, cough, and shortness of breath, and typically appear 2 to 14 days after exposure.[11] Severe manifestations of the disease have included acute pneumonia, acute respiratory distress syndrome, septic shock, and multi-organ failure.[12] As of March 3, 2020, approximately 3.4 percent of COVID–19 cases reported around the world had resulted in death.[13] The mortality rate is higher among older adults and those with compromised immune systems.[14] During the height of the spread of COVID–19 within the United States and internationally, there were significant numbers of deaths and the rates of infection increased rapidly, indicating

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[1] CDC, *Coronavirus Disease 2019 (COVID–19), Situation Summary* (''*Situation Summary*'') (updated April 19, 2020), *https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html (last visited May 15, 2020).*

[2] Congressional Budget Office (''CBO''), *A Potential Influenza Pandemic: Possible Macroeconomic Effects and Policy Issues* at 6–7 (December 8, 2005, revised July 27, 2006), *https://www.cbo.gov/sites/default/files/109th-congress-2005-2006/reports/12-08-birdflu.pdf; see also* Homeland Security Council, White House, *National Strategy for Pandemic Influenza* at 1 (2005), *https://www.cdc.gov/flu/pandemic-resources/pdf/pandemic-influenza-strategy-2005.pdf.*

[3] Homeland Security Council, White House, *National Strategy for Pandemic Influenza: Implementation Plan* at 15 (2006), *https://www.cdc.gov/flu/pandemic-resources/pdf/pandemic-influenza-implementation.pdf.*

[4] *Id.* at 27.

[5] *Id.* at 1.

[6] DHS, *Pandemic Influenza: Preparedness, Response, and Recovery: Guide for Critical Infrastructure and Key Resources,* Introduction at 1 (2006) (Michael Chertoff, Secretary of Homeland Security), *https://www.dhs.gov/sites/default/files/publications/cikrpandemicinfluenzaguide.pdf.*

[7] CDC, *Situation Summary* (updated June 22, 2020), *https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html* (last visited June 22, 2020).

[8] CDC, *Interim Infection Prevention and Control Recommendations for Patients with Suspected or Confirmed Coronavirus Disease 2019 (COVID–19) in Healthcare Settings* (updated May 18, 2020), *https://www.cdc.gov/coronavirus/2019-ncov/infection-control/control-recommendations.html* (last visited June 8, 2020).

[9] CDC, *Interim Clinical Guidance for Management of Patients with Confirmed Coronavirus Disease (COVID–19)* (updated June 2, 2020), *https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-guidance-management-patients.html* (last visited June 8, 2020).

[10] Ariana Eunjung Cha, *Spiking U.S. Coronavirus Cases Could Force Rationing Decisions Similar to Those Made in Italy, China,* Wash. Post (Mar. 15, 2020), *https://www.washingtonpost.com/health/2020/03/15/coronavirus-rationing-us/; see also* CDC, *Healthcare Facilities: Preparing for Community, https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-hcf.html* (last visited May 15, 2020).

[11] CDC, Coronavirus Disease 2019 (COVID–19), *Symptoms of Coronavirus, https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html* (last visited May 15, 2020).

[12] CDC, *Interim Clinical Guidance for Management of Patients with Confirmed Coronavirus Disease (COVID–19)* (updated June 2, 2020), *https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-guidance-management-patients.html* (last visited June 8, 2020).

[13] World Health Organization Director-General, *Opening Remarks at the Media Briefing on COVID–19* (Mar. 3, 2020), *https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---3-march-2020.*

[14] CDC, *Interim Clinical Guidance for Management of Patients with Confirmed Coronavirus Disease (COVID–19)* (updated June 2, 2020), *https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-guidance-management-patients.html* (last visited June 8, 2020).

the critical need to reduce the risk of further spread by limiting and restricting admission and relief to aliens who may be carrying the disease and could pose further risk to the U.S. population. As in many other countries that, during the spread of COVID–19, closed their borders and restrained international travel, pandemic-related risks raise security threats for the United States.[15]

On January 31, 2020, the Secretary of the U.S. Department of Health and Human Services (''HHS'') declared COVID–19 to be a public health emergency under the Public Health Service Act (''PHSA'').[16] On March 13, 2020, the President issued a proclamation declaring a national emergency concerning COVID–19.[17] Likewise, all U.S. States, territories, and the District of Columbia have declared a state of emergency in response to the growing spread of COVID–19.[18]

As of May 2020, the President had suspended the entry of most travelers from the PRC (excluding Hong Kong and Macau), Iran, the Schengen Area of Europe,[19] the United Kingdom, and the Republic of Ireland, due to COVID–19.[20] In mid-March, the CDC issued Level 3 Travel Health Notices recommending that travelers avoid all nonessential travel to the PRC (excluding Hong Kong and Macau), Iran, South Korea, and most of Europe.[21] The U.S. Department of State (''DOS'') then issued a global Level 4 Do Not Travel Advisory advising travelers to avoid all international travel due to the global impact of COVID–19.[22] In two joint statements issued on March 20, 2020, the United States, along with Canada and Mexico, announced a temporary restriction on all non-essential travel across the nations' shared borders.[23] And during the course of the pandemic, the Federal Government announced guidelines stating that when outside their homes, persons should maintain six feet of distance from others, not gather in groups, stay out of crowded places, and avoid mass gatherings.[24] All but seven states issued stay-at-home orders or similar guidance for various time periods during the pandemic.[25]

C. The Threat of COVID–19 and Future Pandemics to the Security of the United States

On March 20, 2020, the CDC Director exercised his authority under section 362 of the PHSA, 42 U.S.C. 265,[26] to prohibit the introduction of certain persons into the United States from Canada and Mexico whose entry at this time, due to the continued existence of COVID–19 in countries or places from which such persons are traveling, would create an increase in the serious danger of the introduction of such disease into and through the United States (''CDC Order'').[27] The Director further requested that DHS aid in the enforcement of the order, which aid DHS is required to provide pursuant to section 365 of the PHSA, 42 U.S.C. 268(b).

According to the CDC Order, Mexico and Canada both had numerous confirmed cases of COVID–19, and the entry of aliens traveling from these countries currently continues to pose a risk of further transmission to the United States, which otherwise has been making progress within its borders to stem the further spread of the pandemic.[28] On March 30, 2020, the Government of Mexico declared a national public health emergency and ordered the suspension of non-essential public activity through April 30, 2020, and the total number of confirmed cases and confirmed deaths in Mexico as of May 21, 2020, exceeded 59,500, and 6,500, respectively.[29] In addition, in

[15] *See, e.g.,* WHO, *Coronavirus disease 2019 (COVID–19) Situation Report—65* (Mar. 25, 2020), *https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200325-sitrep-65-covid-19.pdf?sfvrsn=2b74edd8_2* (confirming 413,467 cases and 18,433 deaths globally as of March 25, 2020 and documenting the growth in the global epidemic curve); CDC, *Coronavirus Disease 2019 (COVID–19): Cases in U.S., https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html* (providing the total number of domestic cases every day starting on January 22, 2020 and listing 1,551,095 cases and 93,061 deaths domestically as of May 21, 2020) (last visited May 21, 2020).).

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

[17] Proclamation 9994 of Mar. 13, 2020, Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak, 85 FR 15337 (Mar. 18, 2020).

[18] National Governors Association (''NGA''), *Coronavirus: What You Need to Know, https://www.nga.org/coronavirus* (state action tracking chart) (last visited May 21, 2020).

[19] For purposes of this proposed rule, the Schengen Area comprises 26 European states: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland.

[20] Proclamation 9984 of Jan. 31, 2020, Suspension of Entry as Immigrants and Non-Immigrants of Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus and Other Appropriate Measures to Address This Risk, 85 FR 6709 (Feb. 5, 2020); Proclamation 9992 of Feb. 29, 2020, Suspension of Entry as Immigrants and Non-Immigrants of Certain Additional Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus, 85 FR 12855 (Mar. 4, 2020); Proclamation 9993 of Mar. 11, 2020, Suspension of Entry as Immigrants and Non-Immigrants of Certain Additional Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus, 85 FR 15045 (Mar. 16, 2020); Proclamation 9996 of Mar. 14, 2020, Suspension of Entry as Immigrants and Non-Immigrants of Certain Additional Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus, 85 FR 15341 (Mar. 18, 2020).

[21] CDC, *Travelers' Health, Global COVID—19 Pandemic Notice, Warning—Level 3, Avoid Nonessential Travel—Widespread Ongoing Transmission* (Mar. 27, 2020), *https://wwwnc.cdc.gov/travel/notices/warning/coronavirus-europe.*

[22] DOS, *Bureau of Consular Affairs, Global Level 4 Health Advisory—Do Not Travel* (Mar. 31, 2020), *https://travel.state.gov/content/travel/en/traveladvisories/ea/travel-advisory-alert-global-level-4-health-advisory-issue.html.*

[23] DHS, *Joint Statement on US-Canada Joint Initiative: Temporary Restriction of Travelers Crossing the US-Canada Land Border for Non-Essential Purposes* (Mar. 20, 2020), *https://www.dhs.gov/news/2020/03/20/joint-statement-us-canada-joint-initiative-temporary-restriction-travelers-crossing* and DHS, *Joint Statement on US-Mexico Joint Initiative to Combat the COVID–19 Pandemic* (Mar. 20, 2020), *https://www.dhs.gov/news/2020/03/20/joint-statement-us-mexico-joint-initiative-combat-covid-19-pandemic.*

[24] CDC, *How to Protect Yourself & Others, https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html* (last visited May 21, 2020).

[25] NGA, *Coronavirus: What You Need to Know, https://www.nga.org/coronavirus* (state action tracking chart) (last visited May 21, 2020).

[26] The statute assigns this authority to the Surgeon General of the Public Health Service. However, Reorganization Plan No. 3 of 1966 abolished the Office of the Surgeon General and transferred all statutory powers and functions of the Surgeon General and other officers of the Public Health Service and of all agencies of or in the Public Health Service to the Secretary of Health, Education, and Welfare, now the Secretary of Health and Human Services, 31 FR 8855, 80 Stat. 1610 (June 25, 1966); *see also* Public Law 96–88, 509(b), 93 Stat. 695 (codified at 20 U.S.C. 3508(b)). References in the PHSA to the Surgeon General are to be read in light of the transfer of statutory functions and re-designation. Although the Office of the Surgeon General was re-established in 1987, the Secretary of HHS has retained the authorities previously held by the Surgeon General.

[27] *See* HHS, CDC, Order Suspending Introduction of Persons from a Country Where a Communicable Disease Exists (''CDC Order''), 85 FR 17060 (Mar. 26, 2020) (publishing CDC Order with effective date of March 20, 2020), *https://www.cdc.gov/quarantine/pdf/CDC-Order-Prohibiting-Introduction-of-Persons_Final_3-20-20_3-p.pdf.* The CDC Order stated that:

> This order is necessary to protect the public health from an increase in the serious danger of the introduction of . . . COVID–19 . . . into the land POEs, and the Border Patrol stations between POEs, at or near the United States borders with Canada and Mexico. . . . This order is also necessary to protect the public health from an increase in the serious danger of the introduction of COVID–19 into the interior of the country when certain persons are processed through the same land POEs and Border Patrol stations and move into the interior of the United States.

85 FR at 17061.

[28] *See* HHS, CDC, Extension of Order Under Sections 362 and 365 of the Public Health Service Act; Order Suspending Introduction of Certain Persons From Countries Where a Communicable Disease Exists, 85 FR 22424, 22425–26 (Apr. 22, 2020).

[29] *See* Daniel Borunda, *Coronavirus: Mexico Declares National Public Health Emergency, Bans Nonessential Activity,* El Paso Times (Mar. 31, 2020), *https://www.elpasotimes.com/story/news/*

Continued

early May, the *New York Times* reported that:

> Mexico City officials have tabulated more than 2,500 deaths from the virus and from serious respiratory illnesses that doctors suspect were related to Covid-19 . . . Yet the federal government is reporting about 700 in the area . . .
>
> [E]xperts say Mexico has only a minimal sense of the real scale of the epidemic because it is testing so few people.
>
> Far fewer than one in 1,000 people in Mexico are tested for the virus—by far the lowest of the dozens of nations in the Organization for Economic Cooperation and Development, which average about 23 tests for every 1,000 people.
>
> More worrisome, they say, are the many deaths absent from the data altogether, as suggested by the figures from Mexico City, where the virus has struck hardest of all. Some people die from acute respiratory illness and are cremated without ever getting tested, officials say. Others are dying at home without being admitted to a hospital—and are not even counted under Mexico City's statistics.[30]

The existence of COVID–19 in Mexico presents a serious danger of the further introduction of COVID–19 into the United States due to the high level of migration across the United States border with Mexico. The danger posed by cross-border COVID–19 transmission is not only from Mexican nationals, but also from non-Mexicans seeking to cross the U.S.-Mexico border at ports-of-entry (''POEs'') and those seeking to enter the United States illegally between POEs. The CDC Order notes that ''[m]edical experts believe that . . . spread of COVID–19 at asylum camps and shelters along the U.S. border is inevitable.'' [31] Of the approximately 34,000 inadmissible aliens that DHS has processed to date in Fiscal Year 2020 at POEs along the U.S.-Mexico border and the approximately 117,000 aliens that the United States Border Patrol (''USBP'') has apprehended attempting to unlawfully enter the United States between the POEs, almost 110,000 are Mexican nationals and more than 15,000 are nationals of other countries who are now experiencing sustained human-to-human transmission of COVID–19, including approximately 1,500 Chinese nationals.[32]

As set forth in the CDC Order, community transmission is occurring throughout Canada, and the number of cases in the country continues to increase.[33] Through February of FY 2020, DHS processed 20,166 inadmissible aliens at POEs at the U.S.-Canadian border, and USBP apprehended 1,185 inadmissible aliens attempting to unlawfully enter the United States between POEs.[34] These aliens included not only Canadian nationals but also 1,062 Iranian nationals, 1,396 Chinese nationals, and 1,326 nationals of Schengen Area countries.[35]

1. Danger to Border Security and Law Enforcement Personnel

Because of the continued prevalence of COVID–19 in both Mexico and Canada, the CDC has determined that the entry of aliens crossing the northern and southern borders into the United States (regardless of their country of origin) would continue to present a serious danger of introducing COVID–19 into POEs and Border Patrol Stations at or near the Mexico and Canada land borders. Transmission of COVID–19 at facilities under the jurisdiction of U.S. Customs and Border Protection (''CBP'') could lead to the infection of aliens in CBP custody, as well as infection of CBP officers, agents, and others who come into contact with such aliens in custody.

CBP officers and agents come into regular, sustained contact with aliens seeking to enter the United States between POEs, or whose entry is otherwise contrary to law, who have no travel documents or medical history. Aliens arriving from countries suffering the acute circumstances of an international pandemic, whose entry presents the risk of spreading infectious or highly contagious illnesses or diseases of public health significance, pose a significant danger to other aliens in congregate settings and to CBP operations. The longer CBP must hold such aliens for processing prior to expedited removal, the greater the danger to CBP personnel and other aliens in CBP custody.

Although CBP has policies and procedures in place to handle communicable diseases, the unprecedented challenges posed by the COVID–19 pandemic (and similar pandemics in the future) cannot reliably be contained by those policies and procedures, and thus this or another infectious or highly contagious illness or disease could cripple the already-strained capacities at CBP's facilities. Such a pandemic could lead to significant reductions in available personnel, which would lead to severe vulnerabilities and gaps in securing the border. Additionally, an outbreak of a highly communicable disease in a CBP facility could result in CBP being forced to close that facility, which would limit how CBP conducts operations or where CBP can detain aliens whom it apprehends.

As a law enforcement agency, CBP is not equipped to provide medical support to treat infectious or highly contagious illnesses or diseases brought into CBP facilities.[36] Of the 136 CBP facilities along the land and coastal borders, only 46 facilities, all located on the southern land border with Mexico, have contracted medical support on location. Even that contracted medical support is not currently designed to diagnose, treat, and manage certain infectious or highly contagious illnesses or diseases—particularly novel diseases. Moreover, many CBP facilities, particularly along the southern land border, are located in remote locations distant from hospitals and other medical care and supplies. In short, if an infectious or highly contagious illness or disease were to be transmitted within a CBP facility, CBP operations could face significant disruption.

After spending time in CBP custody, an alien may, depending on the facts and circumstances, be transferred to ICE custody. In some ways, the dangers to ICE operations posed by aliens who are at risk of spreading infectious or highly contagious illnesses or diseases are greater than those posed to CBP operations, due to the longer amount of time aliens spend detained in ICE custody. ICE often detains aliens for time periods ranging from several days to many weeks, including while an alien's 240 proceeding is pending; the

health/2020/03/31/coronavirus-pandemic-mexico-declares-national-public-health-emergency/5093905002/; Subsecretaría de Prevención y Promoción de la Salud, Secretaría de Salud, Gobierno de México, *Comunicado Técnico Diario COVID–19 MÉXICO* (reporting that there were 59,567 confirmed cases and 6,510 confirmed deaths in Mexico as of May 21, 2020) *https://www.gob.mx/salud/documentos/coronavirus-covid-19-comunicado-tecnico-diario-238449* (updates posted regularly, last visited May 21, 2020).

[30] Azam Ahmed, *Hidden Toll: Mexico Ignores Wave of Coronavirus Deaths in Capital,* New York Times (May 8, 2020), *https://www.nytimes.com/2020/05/08/world/americas/mexico-coronavirus-count.html?smid=em-share* (reporting that, according to a *Times* analysis, more than three times as many people may have died from COVID–19 in Mexico City than the country's federal statistics show).

[31] CDC Order, 85 FR at 17064; *see also* Rick Jervis, *Migrants Waiting at U.S.-Mexico Border at Risk of Coronavirus, Health Experts Warn,* USA Today (Mar. 17, 2020), *https://www.usatoday.com/story/news/nation/2020/03/17/us-border-could-hit-hard-coronavirus-migrants-wait-mexico/5062446002/;* Rafael Carranza, *New World's Largest Border Crossing, Tijuana Shelters Eye the New Coronavirus with Worry,* Arizona Republic (Mar. 14, 2020), *https://www.azcentral.com/story/news/politics/immigration/2020/03/14/tijuana-migrant-shelters-coronavirus-covid-19/5038134002/.*

[32] CDC Order, 85 FR at 17060.

[33] *Id.*

[34] *Id.*

[35] *Id.*

[36] CDC Order, 85 FR at 17060.

average time an alien spends in ICE custody is approximately 55 days.[37]

The length of an alien's stay in ICE custody after being transferred to CBP is often tied directly to the time it takes to adjudicate an alien's immigration claims in 240 proceedings. If an asylum officer determines that an alien placed into expedited removal has not shown that the alien has a credible fear of persecution, the alien may still be determined to have a credible or reasonable fear of persecution or a credible fear of torture after review by an immigration judge (''IJ''), in which case the alien would be placed into 240 proceedings for the adjudication of their claims for relief and protection under the immigration laws, and may remain in ICE custody while those claims are adjudicated. Many of these adjudications require multiple hearings, which lengthen the time an alien may remain in custody and in close contact with ICE personnel. Furthermore, once a non-detained alien is placed into 240 proceedings, it can be months or years before their cases are adjudicated, as immigration courts in DOJ's Executive Office for Immigration Review have a backlog of more than 1,000,000 pending cases, at least 517,000 of which include an asylum application.

ICE expends significant resources to ensure the health and welfare of all those detained in its custody.[38] In the case of an infectious disease outbreak, ICE has protocols in place to ensure the health and welfare of the detained population and to halt the spread of disease. But many of these protocols, such as keeping affected detainees in single-cell rooms or cohorts, can impact the availability of detention beds, and thus could impair ICE's ability to operate its facilities at normal capacity.

To protect its personnel, migrants, and the domestic population, DHS must be able to mitigate the harmful effects of any infectious or highly contagious illnesses or diseases. A unique challenge is posed by diseases such as COVID–19 that have a high rate of transmission may require intensive hospital treatment, are not currently preventable through a vaccine, and are prevalent in countries from which aliens seeking to enter the United States between POEs or otherwise contrary to law. The dangers of such diseases are exacerbated if the Government must provide lengthy process and review to aliens arriving from countries where COVID–19 remains prevalent, as their entry would bring them into sustained contact with DHS personnel and other aliens in DHS facilities.

If aliens seeking to enter the United States without proper travel documents or who are otherwise subject to travel restrictions arrive at land POEs, or between the POEs, and become infected with COVID–19 while in DHS custody, they would need to be transported to medical providers for treatment, and many of these providers are in states with some of the lowest numbers of hospital beds per 1,000 inhabitants in the United States.[39] Unless an alien is returned to Mexico during the pendency of his or her proceedings pursuant to the Migrant Protection Protocols, *see* INA 235(b)(2)(C), 8 U.S.C. 1225(b)(2)(C), many, if not most, of these aliens are released into American communities.

Finally, aliens who are at risk of spreading infectious or highly contagious illnesses or diseases, and who therefore pose a danger to DHS personnel and operations, also pose a danger to the safety and health of other persons in the United States. As the CDC Order concludes:

> [T]here is a serious danger of the introduction of COVID–19 into the POEs and Border Patrol stations at or nearby the United States borders with Canada and Mexico, and the interior of the country as a whole . . . . The faster a covered alien is returned . . . the lower the risk the alien poses of introducing, transmitting, or spreading COVID–19 into POEs, Border Patrol stations, other congregate settings, and the interior.[40]

2. The Potential Economic Devastation of a Pandemic

Pandemics also threaten the United States economy. DHS reported in 2006 that ''[c]onsumer and business spending fuel[s] the nation's economic engine. Regardless of the available liquidity and supporting financial processes, a dramatic and extended reduction in spending and the corresponding cascading effects in the private sector [caused by a pandemic] may cause an unprecedented national economic disruption.''[41] The Congressional Budget Office (''CBO'') was more measured, finding that if the country were to experience a severe pandemic similar to the 1918–1919 Spanish flu, ''real [gross domestic product] would be about 4¼ percent lower over the subsequent year than it would have been had the pandemic not taken place. . . . comparable to the effect of a typical business-cycle recession in the United States . . . since World War II.''[42] However, the CBO did note that:

> [S]ome [factors] might suggest a worse outbreak than the one that occurred in 1918. The world is now more densely populated, and a larger proportion of the population is elderly or has compromised immune systems (as a result of HIV). Moreover, there are interconnections among countries and continents—faster air travel and just-in-time inventory systems, for example—that suggest faster spread of the disease and greater disruption if a pandemic was to occur.[43]

As of mid-spring 2020, the economic impact of the COVID–19 pandemic was predicted to be more akin to the impact feared by Secretary Chertoff than the impact predicted by the CBO. The International Monetary Fund (''IMF'') predicted in April 2020 that ''[t]he output loss associated with [the COVID–19] health emergency and related containment measures likely dwarfs the losses that triggered the global financial crisis. . . . It is very likely that this year the global economy will experience its worst recession since the Great Depression, surpassing that seen during the global financial crisis a decade ago.''[44]

The IMF further predicted that the United States economy is likely to contract by 5.9 percent in 2020.[45] While projecting a partial recovery in 2021 (with advanced economies forecast to

[37] DHS, *ICE Average Daily Population (ADP) and ICE Average Length of Stay (ALOS)—FY2020 YTD* (May 9, 2020), *https://www.ice.gov/detention-management#tab2* (last visited May 15, 2020).

[38] ICE's estimated average adult bed cost per day for detention is $124.13 for fiscal year 2020. *See* DHS, *U.S. Immigration and Customs Enforcement, Budget Overview—Fiscal Year 2021 Congressional Justification* at 7, *https://www.dhs.gov/sites/default/files/publications/u.s._immigration_and_customs_enforcement.pdf* (last visited June 8, 2020).

[39] Arizona has 1.9 hospital beds per 1,000 inhabitants; California has 1.8; New Mexico has 1.8, and Texas has 2.3. Kaiser Family Found., *State Health Facts: Hospitals Per 1,000 Population by Ownership Type* (2018), *https://www.kff.org/other/state-indicator/beds-by-ownership/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Total%22,%22sort%22:%22asc%22%7D.* By contrast, the states with the highest number of hospital beds per 1,000 inhabitants have nearly double, or more than double, the number of beds per 1,000 inhabitants—such as South Dakota, at 4.8; North Dakota, at 4.3; and Mississippi, at 4.0. *Id.*

[40] CDC Order, 85 FR at 17067.

[41] DHS, *Pandemic Influenza: Preparedness, Response, and Recovery: Guide for Critical Infrastructure and Key Resources,* at 25 (2006), *https://www.dhs.gov/sites/default/files/publications/cikrpandemicinfluenzaguide.pdf.*

[42] CBO, *A Potential Influenza Pandemic: Possible Macroeconomic Effects and Policy Issues* at 1–2 (December 8, 2005, revised July 27, 2006), *https://www.cbo.gov/sites/default/files/109th-congress-2005-2006/reports/12-08-birdflu.pdf.*

[43] *Id.* at 9.

[44] IMF, *World Economic Outlook: Chapter 1: The Great Lockdown* at v (April 2020) (Foreword by Gita Gopinath), available at *https://www.imf.org/en/Publications/WEO/Issues/2020/04/14/weo-april-2020.*

[45] *Id.* at x (Executive Summary), Table 1.1. The IMF notes that ''[i]n normal crises, policymakers try to encourage economic activity by stimulating aggregate demand as quickly as possible. This time, the crisis is to a large extent the consequence of needed containment measures. This makes stimulating activity more challenging and, at least for the most affected sectors, undesirable.'' *Id.* at v (Foreword by Gita Gopinath).

grow at 4.5 percent), it warned that there is ''considerable uncertainty about the strength of the rebound. Much worse growth outcomes are possible and maybe even likely. This would follow if the pandemic and containment measures last longer . . . , tight financial conditions persist, or if widespread scarring effects emerge due to firm closures and extended unemployment.'' [46]

The United States Congress, on a bipartisan basis, has shared these concerns. Senate Majority Leader Mitch McConnell stated regarding the COVID–19 pandemic and the need for economic relief legislation on the scale of more than a trillion dollars, that:

> Combating this disease has forced our country to put huge parts of our national life on pause[,] triggered layoffs at a breathtaking pace[and] has forced our Nation onto something like a wartime footing. . . . We ha[ve] to get direct . . . financial assistance to the American people. We ha[ve] to get historic aid to small businesses to keep paychecks flowing, stabilize key industries to prevent mass layoffs, and, of course, flood more resources into the frontline healthcare battle itself. . . . No economic policy could fully end the hardship so long as the public health requires that we put so much of our Nation's commerce on ice. This is . . . emergency relief.[47]

Similarly, discussing the same emergency relief legislation, Senate Minority Leader Charles Schumer stated that:

> Our workers are without work. Our businesses cannot do business. Our factories lie idle. The gears of the American economy have ground to a halt. . . . It will be worth it to save millions of small businesses and tens of millions of jobs. It will be worth it to see that Americans who have lost their jobs through no fault of their own will be able to pay their rent and mortgages and put food on the table. . . . It will be worth it to save industries from the brink of collapse in order to save the jobs of hundreds of thousands of Americans in those industries.[48]

D. Current Law

1. Eligibility for Asylum, Statutory Withholding of Removal, and Protection Under the Convention Against Torture Regulations

Asylum is a form of discretionary relief that, generally, keeps an alien from being subject to removal and creates a path to lawful permanent resident status and U.S. citizenship. *See* INA 208, 209(b), 8 U.S.C. 1158, 1159(b); 8 CFR 209.2. In order to apply for asylum, an applicant must be ''physically present'' or ''arriv[ing]'' in the United States, INA 208(a)(1), 8 U.S.C. 1158(a)(1). To obtain asylum, the alien must demonstrate that he or she meets the definition of a ''refugee.'' INA 101(a)(42)(A), 208(b)(1)(A), 8 U.S.C. 1101(a)(42)(A), 1158(b)(1)(A). The alien must also not be subject to a bar to applying for asylum or to eligibility for asylum. *See* INA 208(a)(2), (b)(2), 8 U.S.C. 1158(a)(2), (b)(2).

Aliens who are not eligible to apply for or receive a grant of asylum, or who are denied asylum in an exercise of discretion, may nonetheless qualify for protection from removal under other provisions of the immigration laws. Under statutory withholding of removal, the Secretary may not, subject to certain exceptions, remove an alien to a country if he or the ''Attorney General decide[ ] that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion.'' INA 241(b)(3)(A), 8 U.S.C. 1231(b)(3)(A); *see also* 8 CFR 208.16 and 1208.16(b)(2).

Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (''CAT'') provides that ''[n]o State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.'' [49] While the United States is a signatory to the CAT, the treaty is not self-executing, *see Khan* v. *Holder,* 584 F.3d 773, 783 (9th Cir. 2009); *Auguste* v. *Ridge,* 395 F.3d 123, 132 (3d Cir. 2005). However, the regulations authorized by the legislation implementing CAT, the Foreign Affairs Reform and Restructuring Act (''FARRA''), Public Law 105–277, div. G, subdiv. B, title XXII, sec. 2242(b), 112 Stat. 2681–822 (1998), codified at U.S.C. 1231 note, provide that an alien who establishes that he or she will more likely than not face torture in the proposed country of removal qualifies for protection. *See* 8 CFR 208.16(c), 208.17, 1208.16(c), 1208.17 (''CAT regulations'').

Unlike asylum, statutory withholding of removal and protection under the CAT regulations provide protection from removal only when an alien has established that persecution or torture, respectively, is more likely than not to occur if removed to that particular country. Aliens can be removed to other countries as provided in INA 241(b), 8 U.S.C. 1231(b). As DOJ stated in the final rule implementing the U.S.-Canada Safe Third Country Agreement:

> [I]t is essential to keep in mind that, in order to be entitled to [statutory withholding of removal or protection under the CAT regulations], an alien must demonstrate that it is more likely than not that he or she would be persecuted, or tortured, in the particular removal country. That is, withholding or deferral of removal relates only to the country as to which the alien has established a likelihood of persecution or torture—the alien may nonetheless be returned, consistent with CAT and section 241(b)(1) and (b)(2) of the Act [INA], to other countries where he or she would not face a likelihood of persecution or torture.

Asylum Claims Made by Aliens Arriving From Canada at Land Border Ports-of-Entry, 69 FR 69490, 69492 (Nov. 29, 2004).

2. Application of Bars to Eligibility for Asylum and Withholding of Removal

Through the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (''IIRIRA''), Public Law 104–208, 110 Stat. 3009, and the Antiterrorism and Effective Death Penalty Act of 1996 (''AEDPA''), Public Law 104–132, 110 Stat. 1214, Congress adopted six mandatory bars to asylum eligibility, which largely tracked pre-existing asylum regulations. These bars

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[46] *Id.* The IMF report goes on to find that:

> The rebound in 2021 depends critically on the pandemic fading in the second half of 2020, allowing containment efforts to be gradually scaled back and restoring consumer and investor confidence. . . . The projected recovery assumes that . . . policy [responses] are effective in preventing widespread firm bankruptcies, extended job losses, and system-wide financial strains.
>
> . . . .
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> . . . .
>
> [R]isks to the outlook are on the downside. The pandemic could prove more persistent than assumed. . . . Of course, if a therapy or a vaccine is found earlier than expected . . . the rebound may occur faster than anticipated.
>
> . . . Strong containment efforts in place to slow the spread of the virus may need to remain in force for longer than the first half of the year. . . . Once containment efforts are lifted and people start moving about more freely, the virus could again spread rapidly from residual localized clusters. [P]laces that successfully bring down domestic community spread could be vulnerable to renewed infections from imported cases. In such instances, public health measures will need to be ramped up again, leading to a longer downturn. . . .
>
> The recovery of the global economy could be weaker than expected after the spread of the virus has slowed for a host of other reasons. These include lingering uncertainty about contagion, confidence failing to improve, and establishment closures and structural shifts in firm and household behavior, leading to more lasting supply chain disruptions and weakness in aggregate demand. Scars left by reduced investment and bankruptcies may run more extensively through the economy . . . as occurred, for example, in previous deep downturns. . . . Depending on the duration, global business confidence could be severely affected, leading to weaker investment and growth than projected. . . .

Id., Chapter 1, at 5–9 (citations omitted), available at *https://www.imf.org/en/Publications/WEO/Issues/2020/04/14/weo-april-2020.*

[47] 166 Cong. Rec. S2021–22 (Mar. 25, 2020).

[48] 166 Cong. Rec. S2059 (March 25, 2020).

[49] Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 3(1), December 10, 1984, S. Treaty Doc. No. 100–20 (1988), 1465 U.N.T.S. 84.

prohibit granting asylum to aliens who (1) ''ordered, incited, assisted, or otherwise participated'' in the persecution of others on account of a protected ground; (2) were convicted of a ''particularly serious crime''; (3) committed a ''serious nonpolitical crime outside the United States'' before arriving in the United States; (4) are a ''danger to the security of the United States''; (5) are inadmissible or removable under a set of specified grounds relating to terrorist activity; or (6) were ''firmly resettled in another country prior to arriving in the United States.'' IIRIRA sec. 604(a) (codified at INA 208(b)(2)(A)(i)–(vi), 8 U.S.C. 1158(b)(2)(A)(i)–(vi)).

Congress further provided the Attorney General and the Secretary with the authority to ''establish additional limitations and conditions, consistent with [section 208 of the INA], under which an alien shall be ineligible for asylum.'' IIRIRA, sec. 604(a) (codified at INA 208(b)(2)(C), 8 U.S.C. 1158(b)(2)(C)). The only statutory limitations are that the additional bars to eligibility must be established ''by regulation'' and must be ''consistent with'' the rest of section 208. INA 208(b)(2)(C), 8 U.S.C. 1158(b)(2)(C). As the Tenth Circuit has recognized, ''the statute clearly empowers'' the Attorney General and the Secretary to ''adopt[ ] further limitations'' on asylum eligibility. *R–S–C* v. *Sessions,* 869 F.3d 1176, 1187 n.9 (10th Cir. 2017).

As to statutory withholding of removal, the INA provides that an alien is ineligible who is deportable for participation in Nazi persecution, genocide, or the commission of an act of torture or extrajudicial killing, or who the Secretary or the Attorney General has decided (1) ordered, incited, assisted, or otherwise participated in the persecution of an individual because of the individual's race, religion, nationality, membership in a particular social group, or political opinion, (2) has been convicted by a final judgment of a particularly serious crime and is therefore a danger to the community of the United States, (3) there are serious reasons to believe has committed a serious nonpolitical crime outside the United States before arriving in the United States, or (4) there are reasonable grounds to believe is a danger to the security of the United States. *See* INA 241(b)(3)(B), 8 U.S.C. 1231(b)(3)(B).

In FARRA, Congress directed that the CAT regulations exclude from their protection those aliens subject to the withholding of removal eligibility bars ''[t]o the maximum extent consistent with the obligations of the United States under the Convention'' subject to reservations provided by the U.S. Senate in its ratification resolution. *See* FARRA sec. 2242(c), 8 U.S.C. 1231 note (c). Thus, an alien determined to be ineligible for statutory withholding of removal is also ineligible for withholding of removal under the CAT regulations. *See* 8 CFR 208.16(d)(2), 1208.16(d)(2). However, such an alien, if ordered removed and more likely than not to be tortured in the proposed country of removal, is nonetheless eligible for deferral of removal under the CAT regulations. *See* 8 CFR 208.17, 1208.17.

3. Expedited Removal

In IIRIRA, Congress granted the Federal Government the ability to apply expedited removal procedures to aliens who arrive at a POE or who have entered illegally and are encountered by an immigration officer within parameters established by the Secretary of Homeland Security by designation. *See* INA 235(b), 8 U.S.C. 1225(b); *see also* Designating Aliens For Expedited Removal, 69 FR 48877, 48880 (Aug. 11, 2004). To be subject to expedited removal, an alien must also be inadmissible under section 212(a)(6)(C) or 212(a)(7) of the INA, 8 U.S.C. 1182(a)(6)(C) or 1182(a)(7), meaning that the alien has either tried to procure documentation through misrepresentation or lacks such documentation altogether. Such aliens who are inadmissible under INA 212(a)(6)(C) or 212(a)(7) shall be ''removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum . . . or a fear of persecution.'' INA 235(b)(1)(A)(i), 8 U.S.C. 1225(b)(1)(A)(i).

If an alien does indicate a fear of persecution, he or she is referred for a credible fear interview by an asylum officer. *See* INA 235(b)(1)(A)(ii), 8 U.S.C. 1225(b)(1)(A)(ii). During that interview, an alien must demonstrate a credible fear, defined as a ''significant possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum.'' INA 235(b)(1)(B)(v), 8 U.S.C. 1225(b)(1)(B)(v). If the asylum officer determines that the alien lacks a credible fear, then, following supervisory review, the alien shall be removed from the United States without further review of the negative fear determination absent the alien's specific request for an IJ's review. INA 235(b)(1)(B)(iii)(I), (III), (b)(1)(C), 242(a)(2)(A)(iii), (e)(5), 8 U.S.C. 1225(b)(1)(B)(iii)(I), (III), (b)(1)(C), 1252(a)(2)(A)(iii), (e)(5).

If, however, the asylum officer or IJ determines that the alien has a credible fear, then the alien, under current regulations, is placed in 240 proceedings, for a full removal hearing before an IJ. *See* INA 235(b)(1)(B)(ii), (b)(2)(A), 242(a)(1), 8 U.S.C. 1225(b)(1)(B)(ii), (b)(2)(A), 1252(a)(1); 8 CFR 208.30(e)(5), 1003.42, 1208.30(g)(2)(iv)(B).

Under current regulations, the bars to asylum and withholding of removal are generally not applied during the credible fear process, which leads to considerable inefficiencies for the United States Government.[50] Under the current regulations at 8 CFR 208.30(e)(5), aliens who establish a credible fear of persecution or torture, despite appearing to be subject to one or more of the mandatory bars, are nonetheless generally placed in lengthy 240 proceedings.

IV. Discussion of the Proposed Rule

This proposed rule is designed primarily to implement necessary reforms to our Nation's immigration system so that the Departments may better respond to the COVID–19 crisis and, importantly, may better respond to, ameliorate, and even forestall future public health emergencies. For similar reasons, HHS recently published an interim final rule to ''implement a permanent regulatory structure regarding the potential suspension of introduction of persons into the United States in the event a serious danger of the introduction of communicable

[50] One bar to asylum eligibility currently is being applied at the credible fear stage. On July 16, 2019, the Departments issued an interim final rule providing that certain aliens described in 8 CFR 208.13(c)(4) or 1208.13(c)(4) who enter, attempt to enter, or arrive in the United States across the southern land border on or after such date, after transiting through at least one country outside the alien's country of citizenship, nationality, or last lawful habitual residence en route to the United States, will be found ineligible for asylum (and, because they are subject to this bar, not be able to establish a credible fear of persecution) unless they qualify for certain exceptions. *See* Asylum Eligibility and Procedural Modifications, 84 FR 33829 (July 16, 2019). On July 24, 2019, the U.S. District Court for the Northern District of California enjoined the Departments ''from taking any action continuing to implement the Rule'' and ordered the Departments ''to return to the pre-Rule practices for processing asylum applications.'' *E. Bay Sanctuary Covenant* v. *Barr,* 385 F. Supp. 3d 922, 960 (N.D. Cal. 2019). On August 16, 2019, the United States Court of Appeals for the Ninth Circuit issued a partial stay of the preliminary injunction so that the injunction remained in force only in the Ninth Circuit. 934 F.3d 1026. On September 9, 2019, the district court then reinstated the nationwide scope of the injunction. 391 F.Supp.3d 974. Two days later, the Supreme Court stayed the district court's injunction. *See Barr* v. *East Bay Sanctuary Covenant,* 140 S. Ct. 3 (Mem.) (2019).

disease arises in the future.'' Control of Communicable Diseases; Foreign Quarantine: Suspension of Introduction of Persons Into the United States From Designated Foreign Countries or Places for Public Health Purposes, 85 FR 16559, 16563 (Mar. 24, 2020) (interim final rule with request for comments). As HHS has explained, ''[t]he COVID–19 pandemic highlights why CDC needs an efficient regulatory mechanism to suspend the introduction of persons who would otherwise increase the serious danger of the introduction of a communicable disease into the United States. . . .'' *Id.* at 16562. HHS has also noted that beyond the COVID–19 pandemic, there is always a risk of another emerging or re-emerging communicable disease that may harm the public in the United States. Such a risk includes pandemic influenza (as opposed to seasonal influenza), which occurs when a novel, or new, influenza strain spreads over a large geographic area and effects an exceptionally high percentage of the population. In such cases, the virus strain is new, there usually is no vaccine available, and humans do not typically have immunity to the virus, often resulting in a more severe illness. The severity and unpredictable nature of an influenza pandemic requires public health systems to prepare constantly for the next occurrence. And whenever a new strain of influenza appears, or a major change to a preexisting virus occurs, individuals may have little or no immunity, which can lead to a pandemic. It is difficult to predict the impact that another emerging, or re-emerging communicable disease would have on the United States public health system. Modern pandemics, spread through international travel, can engulf the world in three months or less, can last from 12 to 18 months, and are not considered one-time events. *See generally id.* at 16562–63.

The Departments similarly seek to mitigate the risk of another deadly communicable disease being brought to the United States, or being further spread within the country, by the entry of aliens from countries where the disease is prevalent. Thus, the Departments propose making four fundamental and needed reforms to the immigration system: (1) Clarifying that the ''danger to the security of the United States'' bars to eligibility for asylum and withholding of removal apply in the context of public health emergencies, (2) applying these bars in ''credible fear'' screenings during the expedited removal process so that aliens subject to the bars can be expeditiously removed, (3) streamlining screening for deferral of removal eligibility in the expedited removal process to similarly allow for the expeditious removal of aliens ineligible for deferral, and (4) as to aliens who are determined to be ineligible for asylum and withholding of removal because they are deemed dangers to the security of the United States during credible fear screenings but who nevertheless affirmatively establish that torture in the prospective country of removal would be more likely than not, restoring DHS's discretion to either place the aliens in 240 proceedings or remove them to third countries where they would not face persecution or torture—again, to allow for the expeditious removal of aliens who represent a danger to the security of the United States on public health grounds.

A. The ''Danger to the Security of the United States'' Bar to Eligibility for Asylum and Withholding of Removal

Due to the significant dangers to the security of the United States posed by COVID–19 and possible future pandemics, including the economic toll, the Departments are proposing to clarify that they can categorically bar from eligibility for asylum, statutory withholding of removal and withholding of removal under the CAT regulations as dangers to the security of the United States aliens who potentially risk bringing in deadly infectious disease to, or facilitating its spread within, the United States. This bar would reduce the danger to the United States public, the security of our borders, and the national economy, during the current COVID–19 public health emergency,[51] as well as any future health emergencies.

Specifically, this rule would clarify that aliens whose entry poses a significant public health danger to the United States may constitute a ''danger to the security of the United States,'' and thus be ineligible for asylum or withholding of removal protections in the United States under INA 208 and 241, 8 U.S.C. 1158 and 1231, and 8 CFR 208.16 and 1208.16. Specifically, aliens whose entry would pose a risk of further spreading infectious or highly contagious illnesses or diseases, because of declared public health emergencies in the United States or because of conditions in their country of origin or point of embarkation to the United States, pose a significant danger to the security of the United States.

The entry of these aliens during a public health emergency poses unique risk for two primary reasons. First, the entry of these aliens would present the risk of spreading an infectious disease to key DHS personnel and facilities, particularly those related to CBP and ICE, and this spread would greatly reduce DHS's ability to accomplish its mission. The spread of an infectious disease into CBP facilities and to CBP personnel could disrupt CBP operations to such an extent that it significantly impacts CBP's critical border functions. CBP officers and agents are not readily replaceable, in part because their missions include complex immigration, customs, and national security functions that require specialized training. Gaps in the USBP's ability to patrol the border caused by personnel shortages and facility closures would create severe safety and national security risks for the United States. Further, CBP processes all cargo being imported into the United States, and any substantial reduction in CBP staffing capacity at ports of entry could have enormous consequences on trade and the economy.[52] Without a full complement of officers at POEs, CBP's ability to process and facilitate the entry of much of the cargo that arrives at these installations every day could be impacted, even causing significant delays and a corresponding impact on local, and the national, economies.

More generally, the entry of such aliens during a public health emergency may pose a danger to the health and safety of other aliens detained in DHS custody and all other individuals with whom such aliens come into contact, posing an escalating danger the longer they remain in DHS custody as their claims for asylum or withholding are adjudicated. Such aliens also pose a danger to local communities and medical facilities if they are released into the United States pending adjudication of their claims, or if they receive protection or other relief. By reducing the required processing time for aliens whom the Departments determine pose a danger to the United States, this rule could significantly reduce the likelihood that an infectious or highly contagious illness or disease would be transmitted to other persons in the United States.

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

[52] *See* CBP, Trade Statistics, *https://www.cbp.gov/newsroom/stats/trade* (last visited June 4, 2020) (showing more than $2.6 trillion in imported goods on a yearly basis for fiscal years 2018 and 2019, and significant imports for goods such as aluminum and steel); *see also* CBP, Trade and Travel Fiscal Year 2019 Report (Jan. 30, 2020), *https://www.cbp.gov/document/annual-report/cbp-trade-and-travel-fiscal-year-2019-report* (providing a detailed analysis of trade facilitation by CBP).

Second, as discussed, pandemics such as COVID–19 can inflict catastrophic damage to America's, and the world's, economy and thus, to the security of the United States. To the extent that such damage may have its origin with or be exacerbated by infected aliens seeking to enter the United States illegally or without proper documents, or seeking to apply for asylum or withholding of removal, the entry and presence of potentially infected aliens can rise to the level of a threat to the security of the United States.

While the INA provides that ''an alien who is described [as deportable on terrorism-related grounds] shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States,'' INA 241(b)(3)(B), 8 U.S.C. 1231(b)(3)(B), the scope of the term extends well beyond terrorism considerations, and ''national defense'' considerations as well. The Attorney General has previously determined that ''danger to the security of the United States'' in the context of the bar to eligibility for withholding of removal encompasses considerations of defense, foreign relations, and the economy, writing that:

> The INA defines ''national security'' [in the context of the designation process for foreign terrorist organizations] to mean ''the national defense, foreign relations, or economic interests of the United States.'' Section 219(c)(2) of the Act, 8 U.S.C. 1189(c)(2) (2000). Read as a whole, therefore, the phrase ''danger to the security of the United States'' is best understood to mean a risk to the Nation's defense, foreign relations, or economic interests.

Matter of A–H–, 23 I&N Dec. 774, 788 (AG 2005).

The INA's definition of ''national security'' referred to by the Attorney General provides additional evidence that the term—along with the term ''danger to the security of the United States—should be read to encompass concerns beyond those concerning national defense and terrorism. The definition was enacted in 1996 as section 401(a) of title IV of AEDPA and was added as enacted by the House-Senate Conference Committee. *See* H.R. Rep. No. 104–518, at 38 (1996) (Conf. Rep.). The proposed legislation as originally passed by the Senate defined ''national security'' to mean ''the national defense and foreign relations of the United States.'' 142 Cong. Rec. H2268–03, at H2276 (Mar. 14, 1996) (S. 735, title VI, 401(a)). That version of the bill may have considered economic concerns as separate from national security concerns. For example, it provided that in designating a foreign terrorist organization, the Secretary of State would have had to find that ''the organization's terrorism activities threaten the security of United States citizens, national security, foreign policy, or the economy of the United States''—listing ''national security'' and ''the economy'' as two independent considerations. Section 401(a) of title IV of S. 735 (as passed the Senate on June 7, 1995), 141 Cong. Rec. S7864 (July 7, 1995). In addition, the section included a finding that also differentiated between national security concerns and those related to foreign policy and the economy. Congress found that:

> (B) [T]he Nation's security interests are gravely affected by the terrorist attacks carried out overseas against United States Government facilities and officials, and against American citizens present in foreign countries;
>
> (C) United States foreign policy and economic interests are profoundly affected by terrorist acts overseas directed against foreign governments and their people . . . .

Id. But we do not find such a distinction to be informative. First, Congress decided to merge economic considerations into the definition of national security in the Conference Report. Therefore, to the extent one accepts legislative history as a relevant consideration when interpreting the meaning of statutory terms, the change in phrasing in the Conference Report could suggest a conscious decision that economic considerations are subsumed within a general reference to national security. Second, the explicit reference to economic considerations in the earlier draft of the legislation, when discussing the threats posed by terroristic activities, also implies a connection between national security and economics concerns—suggesting that considerations related to security in this context are quite broad.

Finally, the definition in AEDPA operated in the context of the designation of foreign terrorist organizations. When national security is considered in a much broader context beyond the risk of terrorism, as is the case in this proposed rule, it makes even greater sense to encompass within it economic concerns and public health concerns of such magnitude that they become economic concerns. A pandemic can cause immense economic damage. Thus, the entry of aliens who may further introduce infectious diseases to our country or facilitate the spread of such disease within the interior of the country could pose a danger to U.S. security well within the scope of the statutory bars to eligibility for asylum and withholding of removal. The entry of such aliens could also pose a danger to national security by threatening DHS's ability to secure our border and facilitate lawful trade and commerce. To determine that an alien represents a danger to the security of the United States, the Departments generally do not have to quantify the extent of that danger. The Attorney General has ruled that:

> In contrast to other parallel provisions in former section 243(h)(2) [INA's withholding of removal provision before 1996]—which provide, for example, that a crime be ''serious'' or ''particularly serious'' to constitute ineligibility for withholding of deportation . . . the statute's reference to ''danger'' is not qualified. Any level of danger to national security is deemed unacceptable; it need not be a ''serious,'' ''significant,'' or ''grave'' danger. That understanding is supported by the Government's use, in other contexts, of gradations of danger to national security. For example, for purposes of determining information classification levels, Executive Order No. 12958 categorizes the relative ''damage'' to national security caused by disclosure of certain types of information. . . . in descending order of severity as ''grave damage,'' ''serious damage,'' and ''damage''. . . . As these terms have common parlance in assessing risks to national security, Congress's decision not to qualify the word ''danger'' in former section 243(h)(2)(D) makes clear that Congress intended that any nontrivial level of danger to national security is sufficient to trigger this statutory bar to withholding of deportation.

Matter of A–H–, 23 I&N Dec. at 788. The Attorney General also made clear that this ''nontrivial degree of risk'' standard is satisfied where there is a reasonable belief that an alien poses a danger. *Id.*

In *Yusupov* v. *Attorney General,* 518 F.3d 185, 204 (3rd Cir. 2008) (as amended Mar. 27, 2008), the Third Circuit determined that the Attorney General's understanding that the eligibility bar ''applied to any 'nontrivial level of danger' or 'nontrivial degree of risk' to U.S. security'' was a reasonable interpretation of the INA, and the court deferred to the Attorney General in upholding that statutory interpretation. The court explained that the eligibility bar ''does not easily accord acceptable gradations, as almost any 'danger' to U.S. security is serious.'' *Id.* It concluded that ''Congress did not announce a clear intent that the danger to U.S. security be 'serious' because such a modifier likely would be redundant. . . . [I]t would be illogical for us to hold that Congress clearly intended for an alien to be non-removable if he poses only a moderate danger to national security.'' [53] *Id.*

[53] The alien must actually pose this level of danger. ''The bottom line in *Yusupov,* which we

Continued

In *Matter of A–H–,* the Attorney General also ruled that ''reasonable'' in the context of the exception for asylum eligibility at 8 U.S.C. 1158(b)(2)(A)(iv)—which requires a determination that ''there are *reasonable grounds* for regarding the alien as a danger to the United States''— ''implied the use of a 'reasonable person' standard'' that was ''substantially less stringent than preponderance of the evidence,'' and instead akin to ''probable cause.'' 23 I&N Dec. at 788–89 (emphasis added). The standard ''is satisfied if there is information that would permit a reasonable person to believe that the alien may pose a danger to the national security.'' *Id.* at 789 (citation omitted). Further, ''[t]he information relied on to support the . . . determination need not meet standards for admissibility of evidence in court proceedings . . . . 'It [is enough that the information relied upon by the Government [i]s not 'intrinsically suspect.' '' *Id.* at 789–90 (quoting *Adams* v. *Baker,* 909 F.2d 643, 649 (1st Cir. 1990)). These standards that have been previously applied to interpretations of the security eligibility bar suggest that application of the bar need not be limited to instances where each individual alien is known to be carrying a particular disease. Rather, it is enough that the presence of disease in the countries through which the alien has traveled to reach the United States makes it reasonable to believe that the entry of aliens from that country presents a serious danger of introduction of the disease into the United States.

B. Application of the Danger to the Security of the United States Bars to Eligibility for Asylum and Withholding of Removal in the Expedited Removal Process

The Departments' current regulations under title 8 of the United States Code preclude DHS from efficiently and expeditiously removing aliens from the United States who may pose significant public health risks or who present other dangers to the security of the United States. Beyond creating health risks that may endanger the United States, the COVID–19 crisis highlights the fact that the existing expedited removal procedures require the Departments to engage in redundant and inefficient screening mechanisms to remove aliens who would not be able to establish eligibility for asylum and withholding of removal in the first place.

To address these public health concerns, especially in light of the current COVID–19 public health emergency, the Departments are proposing regulatory changes to expedite the processing of certain aliens amendable to expedited removal, including those who potentially have deadly contagious diseases. These changes are necessary because the existing regulatory structure is inadequate to protect the security of the United States and must be updated to allow for the efficient and expeditious removal of aliens subject to the bars to asylum and withholding eligibility because they present a danger to the security of the United States. These bars would be applied at the credible fear screening stage for aliens in expedited removal proceedings, thereby avoiding potentially lengthy periods of detention for aliens awaiting the adjudication of their asylum and withholding claims and minimizing the inefficient use of government resources.

Applying the ''danger to the security of the United States'' asylum and withholding eligibility bars in the expedited removal process is necessary to reduce health and safety dangers to DHS personnel and to the general public. And permitting asylum officers to apply these bars will ensure a more efficient and expeditious removal process for aliens who will not be eligible to receive asylum or withholding at the conclusion of 240 proceedings in immigration court.

It is unnecessary and inefficient to adjudicate claims for relief or protection in 240 proceedings when it can be determined that an alien is subject to a mandatory bar to eligibility for asylum or statutory withholding, and is ineligible for deferral of removal, at the credible fear screening stage. The existing rules provide aliens additional adjudicatory procedures notwithstanding an eligibility bar for asylum or withholding of removal, and those procedures place DHS operations and personnel in danger. Accordingly, applying the danger to the security of the United States bars to asylum and withholding of removal at the credible fear stage would eliminate delays inherent in the full expenditure of resources required by 240 proceedings, when such expenditure is unnecessary and would serve no purpose due to the threshold ineligibility of the alien to receive asylum due to a statutory bar.

C. Streamlining Screening for Deferral of Removal in Expedited Removal

As previously discussed, Congress required the application of the withholding of removal eligibility bars ''[t]o the maximum extent consistent with the obligations of the United States under [CAT]'' to aliens seeking protection under the CAT regulations. FARRA sec. 2242(c), 8 U.S.C. 1231 note (c). The sole purpose of CAT deferral is to provide protection to such aliens barred from eligibility for withholding of removal. The preamble to the 1999 CAT rule states that ''[d]eferral of removal will be granted . . . to an alien who is likely to be tortured in the country of removal but who is barred from withholding of removal[,]'' Regulations Concerning the Convention Against Torture, 64 FR 8478, 8480 (Feb. 19, 1999), and the regulatory text itself states that to be eligible for deferral an alien must be ''subject to the provisions for mandatory denial of withholding of removal under § 208.16(d)(2) or (d)(3).'' 8 CFR 208.17(a), 1208.17(a).

This rule proposes to further FARRA's command that the withholding of removal eligibility bars apply to aliens seeking protection under the CAT regulations ''[t]o the maximum extent consistent with the obligations of the United States under [CAT]'' by requiring that such aliens seeking such protection meet, at the credible fear stage, their ultimate burden to demonstrate eligibility for deferral of removal under the CAT regulations—*i.e.,* that it is more likely than not that they would be tortured in the country of removal. *See* 8 CFR 208.16(c)(2), 208.17(a). The proposed change will also contribute to the streamlining of the expedited removal process.[54] If the alien has not affirmatively established during the credible fear process that the alien is more likely than not to face torture in the country of removal, the alien may be expeditiously removed. The alien would not need to be placed in 240 proceedings, which often necessitate an alien remaining in the United States for many years while such proceedings are

adopt, is that . . . the alien must 'actually pose a danger' to United States security . . . . [T]he appropriate [standard is the] affirmative 'is' language rather than the incorrect 'may pose' standard.'' *Malkandi* v. *Holder,* 576 F.3d 906, 914 (9th Cir. 2009); *see also Yusupov,* 518 F.3d at 201. The danger posed by the entry of aliens during a pandemic is unique. In many cases it is not possible to know whether any particular individual is infected at the time of apprehension. Many individuals who are actually infected may be asymptomatic, reliable testing may not be available, and, even where available, the time frame required to obtain test results may both be operationally unfeasible and expose DHS officers, other aliens, and domestic communities to possible infection while results are pending. Nonetheless, an individual's membership within a class of aliens arriving from a country in which the spread of a pandemic poses serious danger itself presents a serious security risk.

[54] Article 3 of CAT is silent on specific implementing procedures, except to the extent that it states that ''for the purpose of determining whether there are such [substantial] grounds [for believing that a person would be tortured], the competent authorities shall take into account all relevant considerations . . . .'' CAT, art. 3(1).

pending. This proposed rule change thus will facilitate removal of aliens subject to the danger to the security of the United States bars as expeditiously as possible during times of pandemic, in order to reduce physical interactions with DHS personnel, other aliens, and the general public.

This screening standard for deferral of removal is consistent with DOJ's longstanding rationale that ''aliens ineligible for asylum,'' who could only be granted statutory withholding of removal or protection under the CAT regulations, should be subject to a different screening standard corresponding to the higher bar for actually obtaining these forms of protection. *See* Regulations Concerning the Convention Against Torture, 64 FR at 8485 (''Because the standard for showing entitlement to these forms of protection (a probability of persecution or torture) is significantly higher than the standard for asylum (a well-founded fear of persecution), the screening standard adopted for initial consideration of withholding and deferral requests in these contexts is also higher.'').

D. Restoring Prosecutorial Discretion

The proposed rule would also amend the Departments' existing regulations to enable DHS to exercise its statutorily authorized discretion about how to process individuals subject to expedited removal who are determined to be ineligible for asylum and withholding of removal based on the danger to security, but who may be eligible for deferral of removal. The proposed rule would provide DHS with the option, to be exercised as a matter of prosecutorial discretion, to either place such an alien into 240 proceedings or to remove the alien to a country where the alien has not affirmatively established that it is more likely than not that the alien's life or freedom would be threatened on a protected ground, or that the alien would be tortured. This discretion is important because it would give DHS flexibility to quickly process aliens during national health emergencies during which placing an alien into full 240 proceedings may pose a danger to the health and safety of other aliens with whom the alien is detained, or to DHS officials who come into close contact with the alien. It would restore DHS's ability in the expedited removal process to remove such aliens to third countries rather than having to place them in 240 proceedings.

This discretion is inherent in section 235 of the INA, 8 U.S.C. 1225. Current regulations instruct asylum officers and IJs to treat an alien's request for asylum in expedited removal proceedings as a request for statutory withholding of removal and withholding and deferral or removal under the CAT regulations as well. *See* 8 CFR 208.13(c)(1), 208.30(e)(2)–(4), 1208.13(c)(1), 1208.16(a). However, the INA neither mandates this, nor even references consideration of statutory withholding or protection under the CAT regulations as a part of the credible fear screening process. Indeed, the INA provides that an alien enters that process only if he or she ''indicates either an intention to apply for asylum . . . or a fear of persecution,'' INA 235(a)(2), 8 U.S.C. 1225(a)(2), in which case he or she is interviewed by an asylum officer who determines whether he or she has a ''credible fear of persecution,'' which is defined as ''a significant possibility . . . that the alien could establish eligibility for asylum.'' INA 235(b)(1)(B)(v), 8 U.S.C. 1225(b)(1)(B)(v). Only if the alien establishes such a possibility of eligibility for asylum (with no mention of eligibility for withholding of removal) is he or she entitled to ''further consideration of the application for asylum.'' INA 235(b)(1)(A)(i)–(ii), (B)(ii), (v), 8 U.S.C. 1225(b)(1)(A)(i)–(ii), (B)(ii), (v). The Departments' current regulations generally effectuate this ''further consideration'' through the placement of an alien in 240 proceedings.[55] However, section 235 does not require (or even refer to) ''further consideration'' of eligibility for withholding or deferral of removal. While DHS will of course not remove an alien to a country contrary to section 241(b)(3) of the INA, 8 U.S.C. 1241(b)(3), or to FARRA and the CAT regulations, the immigration laws do not prevent DHS from removing an alien who is ineligible for asylum to a third country.

The Departments acknowledge that these procedures for processing individuals in expedited removal proceedings who are subject to the danger to national security bar differ from expedited removal procedures set forth in the Notice of Proposed Rulemaking, ''Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review.'' 85 FR 36264 (June 15, 2020). The Departments will reconcile the procedures set forth in the two proposed rules at the final rulemaking stage, and request comment regarding how to best reconcile the procedures set forth in the proposed rules.

In sum, this rule not only would provide the Departments with important tools for safeguarding America from COVID–19 (should the disease still be a threat when a final rule is published), but it would also clarify the availability of critical tools within the Departments' statutory authority should another pandemic strike.

V. Detailed Discussion of the Proposed Regulatory Changes

A. Proposed 8 CFR 208.13(c)(10) and 1208.13(c)(10)

These paragraphs propose to clarify that the Departments may rely on certain public health risks and considerations as reasonable grounds for regarding an alien or a class of aliens to be a danger to the security of the United States, and thus subject to a mandatory bar to eligibility for asylum. Specifically, in determining whether an alien or a class of aliens can reasonably be regarded as a danger to the security of the United States under section 208(b)(2)(A)(iv) of the Act, the Secretary and the Attorney General may determine whether the alien exhibits symptoms consistent with being afflicted with any contagious or infectious disease or has come into contact with such a disease, or whether the alien or class of aliens is coming from a country, or a political subdivision or region of a country, or has embarked at a place, where such disease is prevalent or epidemic (or had come from that country, subdivision, or region, or had embarked at that place, during a period in which the disease was prevalent or epidemic there), if:

- The disease has triggered an ongoing declaration of a public health emergency under Federal law, including under section 319 of the PHSA, 42 U.S.C. 247d, or section 564 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 360bbb–3, or
- the Secretary and the Attorney General have, in consultation with HHS, jointly
  - determined that because the disease is a communicable disease of public health significance (in accordance with regulations prescribed by the Secretary of Health and Human Services (currently at 42 CFR 34.2(b))) that is

[55] The interim final rule establishing a bar to asylum eligibility for certain aliens who enter, attempt to enter, or arrive in the United States across the southern land border after transiting through at least one country outside the alien's country of citizenship, nationality, or last lawful habitual residence en route to the United States provides that if an alien is determined not to have a credible fear of persecution as a consequence of being subject to such bar, the alien will nonetheless be placed in removal proceedings before EOIR if the alien establishes a reasonable fear of persecution or torture. In such an instance, the rule provides that the scope of review is limited to a determination of whether the alien is eligible for withholding or deferral of removal. *See* Asylum Eligibility and Procedural Modifications, 84 FR 33829 (July 16, 2019).

prevalent or epidemic in another country or place, the physical presence in the United States of an alien or a class of aliens who are coming from such country or countries (or one or more political subdivisions or regions thereof) or have embarked at that place or places (or had come from that country or countries (or one or more subdivisions or regions thereof) or embarked at that place or places during a period in which the disease was prevalent or epidemic there), would cause a danger to the public health in the United States, and

○ designated the foreign country or countries (or one or more political subdivisions or regions thereof) or place or places and the period of time or circumstances under which the Secretary and the Attorney General jointly deem it necessary for the public health that such alien or class of aliens who either are still within the number of days equivalent to the longest known incubation and contagion period for the disease or exhibit symptoms indicating they are afflicted with the disease be regarded as a danger to the security of the United States under section 208(b)(2)(A)(iv) of the Act, including any relevant exceptions as appropriate.

The Departments solicit comment on the nature of the consultation that the Secretary and the Attorney General should engage in with the Secretary of Health and Human Services.

B. Proposed 8 CFR 208.16(d)(2) and 1208.16(d)(2)

The rule proposes to clarify that the Departments may similarly use public health risks and considerations to determine if an alien or a class of aliens can reasonably be regarded as a danger to the security of the United States, and thus be subject to a mandatory bar to eligibility for statutory withholding of removal and withholding of removal under the CAT regulations, under the same standards they would use regarding the ''danger to the security of the United States'' bar to asylum eligibility.

The Departments solicit comment on the nature of the consultation that the Secretary and the Attorney General should engage in with the Secretary of Health and Human Services.

C. Proposed 8 CFR 208.16(f) and 1208.16(f)

The rule proposes to amend 8 CFR 208.16(f) and 1208.16(f), which provide that nothing in those sections or § 208.17 or § 1208.17 would prevent the Service from removing an alien to a third country other than the country to which removal has been withheld or deferred. The rule would clarify that, after providing an alien with the appropriate advisal and allowing the alien the opportunity to withdraw his or her request for withholding or deferral of removal, if the alien does not withdraw, DHS may remove an alien to a third country prior to an adjudication of the alien's request for withholding or deferral of removal if the alien has not affirmatively established that it is more likely than not that the alien would be tortured in that country (pursuant to the procedure set forth in 8 CFR 208.30(e)(5) for an alien in expedited removal proceedings).

D. Proposed 8 CFR 1208.30(e) and (g)

The rule proposes to amend 8 CFR 1208.30(e) to make conforming changes consistent with the amendment to 8 CFR 1208.13(c) concerning the bar to eligibility for asylum based on there being reasonable grounds for regarding an alien as a danger to the security of the United States. The rule also proposes to amend 8 CFR 1208.30(g) to make conforming changes consistent with the amendments to 8 CFR 208.30 regarding IJ review of determinations made by DHS, including the treatment of aliens who are subject to the ''danger to the security of the United States'' bar to asylum.

E. Proposed 8 CFR 208.30(e)(1), (3)–(4), (5)(i), (iii)

The rule would propose amending 8 CFR 208.30(e)(1), (3)–(4) to make conforming changes consistent with proposed amendments to 8 CFR 208.30(e)(5)(i), (iii), regarding the treatment of aliens who are subject to the ''danger to the security of the United States'' and third-country-transit asylum bars.

Under the current version of 8 CFR 208.30(e)(5)(i), with certain exceptions, if an alien is able to establish a credible fear of persecution but appears to be subject to one or more of the mandatory bars to applying for, or being granted, asylum contained in section 208(a)(2) and 208(b)(2) of the Act, or to withholding of removal contained in section 241(b)(3)(B) of the Act, DHS shall nonetheless place the alien in proceedings under section 240 of the Act for full consideration of the alien's claim, unless the alien is a stowaway. If the alien is a stowaway, the Department shall place the alien in proceedings for consideration of the alien's claim pursuant to 8 CFR 208.2(c)(3).

The rule proposes to amend § 208.30(e)(5)(i) to remove the requirement that DHS ''nonetheless place the alien in proceedings under section 240 of the Act'' in the case of an alien ineligible for asylum and withholding of removal pursuant to the ''danger to the security of the United States'' bars but who nevertheless affirmatively establishes that he or she is more likely than not to be tortured in the prospective country of removal, and, consistent with DHS's statutory authority, give the Secretary the option, in his or her unreviewable discretion, to either place the alien in full 240 proceedings, or remove the alien pursuant to expedited removal to a third country. This rule change consequently would require asylum officers to make negative credible fear of persecution determinations for aliens who are subject to the mandatory bar to asylum eligibility based on danger to the security of the United States.

If DHS were to nevertheless determine that an alien should be placed in full 240 proceedings, its determination that the alien had established that he or she is more likely than not to be tortured in the prospective country of removal would not be dispositive of any subsequent consideration of an application for protection under the CAT in those proceedings, consistent with an IJ's general authority to review DHS determinations de novo in immigration proceedings. *Cf.* 8 CFR 1003.42(d) (IJ reviews negative credible fear determinations de novo). If DHS were to remove the alien to a third country, it would do so consistent with section 241(b)(1)–(2) of the Act and 8 CFR 241.15.

The rule does not propose changing the credible fear standard for asylum claims, although the regulation would expand the scope of the credible fear inquiry. An alien who is subject to the ''danger to the security of the United States'' bar to asylum eligibility would be ineligible for asylum and thus would not be able to establish a ''significant possibility . . . [of] eligibility for asylum under section 1158.'' INA 235(b)(1)(B)(v), 8 U.S.C. 1225(b)(1)(B)(v). That alien would also be subject to the identical bar to withholding of removal at INA 241(b)(3)(B)(iv), 8 U.S.C. 1231(b)(3)(B)(iv). *See also* 8 CFR 1208.16(d)(2) (incorporating the bar at 8 U.S.C. 1231(b)(3)(B)(iv) for purposes of withholding of removal under the CAT). Consistent with section 235(b)(1)(B)(iii)(III) of the INA, the alien could still obtain review from an IJ regarding whether the asylum officer correctly determined that the alien was subject to the bar. Further, consistent with section 235(b)(1)(B) of the INA, if the IJ reversed the asylum officer's determination, then the alien could assert the asylum claim in 240 proceedings.

Aliens determined to be ineligible for asylum and withholding of removal by virtue of being subject to the bars would have no remaining viable claim unless an alien is able to affirmatively establish that it is more likely than not that removal to the prospective country would result in the alien's torture, in which case there would be a possible claim for deferral of removal under the CAT regulations. If the alien makes this showing, then DHS can choose in its discretion to place the alien in 240 proceedings, just as with aliens who establish a credible fear of persecution with respect to eligibility for asylum, or return the alien to a third country under appropriate standards.

The proposed screening process would proceed as follows. For an alien subject to expedited removal, DHS will ascertain whether the alien seeks protection, consistent with INA 235(b)(1)(A)(ii), 8 U.S.C. 1225(b)(1)(A)(ii). All such aliens will continue to go before an asylum officer for screening, consistent with INA 235(b)(1)(B), 8 U.S.C. 1225(b)(1)(B). The asylum officer will ask threshold questions to elicit whether an alien is ineligible for asylum pursuant to the ''danger to the security of the United States'' bar. If there is a significant possibility that the alien is not subject to the eligibility bar (and the alien otherwise demonstrates that there is a significant possibility that he or she can establish eligibility for asylum), then the alien will have established a credible fear.

If, however, an alien is unable to establish a significant possibility of eligibility for asylum because of the ''danger to the security of the United States'' bar, then the asylum officer will make a negative credible fear finding for purposes of asylum (and similarly, because the alien is also subject to the ''danger to the security of the United States'' bar to withholding of removal, a negative credible fear finding for purposes of statutory withholding of removal and withholding of removal under the CAT regulations). If the alien affirmatively raises fear of torture, however, the asylum officer will then assess, as appropriate, the alien's eligibility for deferral of removal under the CAT regulations. If the alien establishes that it is more likely than not that he or she would be tortured in the country of removal, then DHS may in its discretion either place the alien in 240 proceedings or remove him or her to a third country.

If placed in 240 proceedings, then the alien will have an opportunity to raise whether he or she was correctly identified as subject to the ''danger to the security of the United States'' bars to asylum and withholding of removal, as well as other claims. If an IJ determines that the alien was incorrectly identified as subject to the bar, then the alien will be able to apply for asylum and withholding of removal. Such an alien can appeal the IJ's decision in these proceedings to the Board of Immigration Appeals and then seek review from a Federal court of appeals.

An alien who is found by the asylum officer to be subject to the bars and who affirmatively raises a fear of torture but does not establish that it is more likely than not that he or she would be tortured can obtain review of both of those determinations by an IJ. In reviewing the determinations, the IJ will decide de novo whether the alien is subject to the ''danger to the security of the United States'' asylum and withholding eligibility bars. If the IJ affirms the determinations, then the alien will be subject to removal without further appeal, consistent with the existing process under section 235 of the INA. If the IJ finds that the determinations were incorrect, then the alien will be placed into 240 proceedings or removed to a third country. An IJ's review determination that an alien is more likely than not to be tortured would not be binding in any subsequent 240 proceedings, and the IJ presiding over those proceedings would consider the alien's eligibility for CAT protection de novo. Thus, the proposed rule would reasonably balance the various interests at stake. It would promote efficiency by avoiding duplicative administrative efforts while ensuring that those who are subject to a bar receive an opportunity to have the asylum officer's finding reviewed by an IJ.

Under the current version of 8 CFR 208.30(e)(5)(iii), if the alien is found to be an alien described as ineligible for asylum in § 208.13(c)(4), then the asylum officer must enter a negative credible fear determination with respect to the alien's application for asylum. The Department must nonetheless place the alien in proceedings under section 240 of the Act for consideration of the alien's claim for withholding of removal under section 241(b)(3) of the Act, or for withholding or deferral of removal under the CAT, if the alien establishes, respectively, a reasonable fear of persecution or torture. The scope of review is limited to a determination of whether the alien is eligible for withholding or deferral of removal, accordingly. However, if an alien fails to establish, during the interview with the asylum officer, a reasonable fear of either persecution or torture, then the asylum officer will provide the alien with a written notice of decision that will be subject to IJ review consistent with paragraph (g) of § 208.30, except that the IJ will review the reasonable fear findings under the ''reasonable fear'' standard instead of the ''credible fear standard'' described in paragraph (g) and in 8 CFR 1208.30(g).

The rule proposes to amend 8 CFR 208.30(e)(5)(iii) to provide that if an alien is not able to establish that he or she has a credible fear because of being subject to the third-country-transit asylum bar, but is nonetheless able to establish a reasonable fear of persecution or torture, or that it is more likely than not that the alien will be tortured in the country of removal, DHS may, in the unreviewable discretion of the Secretary, either place the alien in 240 proceedings (with the scope of review limited to a determination of whether the alien is eligible for statutory withholding of removal or withholding or deferral of removal under the CAT regulations), or remove the alien to a third country. If DHS decides to remove the alien to a third country, it shall do so consistent with section 241(b)(1)–(2) of the Act and 8 CFR 241.15.

The proposed amendments underscore DHS's discretion to determine whether to place an alien in proceedings under section 240 after the alien is found to be subject to the mandatory bar to asylum eligibility for being reasonably regarded as a danger to the security of the United States or found to be subject to the third-country-transit bar.

F. Proposed 8 CFR 208.25 and 1208.25

The Departments are proposing to add severability provisions in each of the amended 8 CFR parts. The Departments believe that each of the provisions of part 208 functions sensibly independent of the other provisions in the part. To protect the goals for which this rule is being proposed, the Departments are proposing to codify their intent that the provisions be severable so that, if necessary, the regulations can continue to function without a stricken provision.

VI. Regulatory Requirements

A. Regulatory Flexibility Act

The Departments have reviewed this proposed rule in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and have determined that this rule will not have a significant economic impact on a substantial number of small entities. The rule would not regulate ''small entities'' as that term is defined in 5 U.S.C. 601(6).

Only individuals, rather than entities, are eligible to apply for asylum and related forms of relief, and only individuals are placed in immigration proceedings.

B. Unfunded Mandates Reform Act of 1995

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

C. Congressional Review Act

This proposed rule is anticipated not to be a major rule as defined by section 804 of the Congressional Review Act. 5 U.S.C. 804. This rule would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

D. Executive Order 12866, Executive Order 13563, and Executive Order 13771

This proposed rule would amend existing regulations to clarify that the Departments may consider emergency public health concerns based on communicable disease when making a determination as to whether ''there are reasonable grounds for regarding [an] alien as a danger to the security of the United States'' and, thus, ineligible to be granted asylum or the protection of withholding of removal in the United States under INA sections 208 and 241 and 8 CFR 208.13 and 1208.13 and 8 CFR 208.16 and 1208.16, respectively. The rule would also provide that this application of the statutory bars to eligibility for asylum and withholding of removal will be effectuated at the credible fear screening stage for aliens in expedited removal proceedings, in order to streamline the protection review process and minimize the spread of communicable disease.

The proposed rule would further allow DHS to exercise its prosecutorial discretion regarding how to process individuals subject to expedited removal who are determined to be ineligible for asylum and withholding of removal in the United States on certain grounds, including being reasonably regarded as a danger to the security of the United States, but who nevertheless establish a likelihood that they will be tortured in the prospective country of removal. It would provide DHS with the option to either place such aliens into 240 proceedings, or remove them to a country with respect to which an alien has not established that it is more likely than not that the alien's life or freedom would be threatened on a protected ground or that the alien would be tortured. Finally, the proposed rule would modify the process for evaluating the eligibility for deferral of removal of aliens who are ineligible for withholding of removal because they are reasonably regarded as a danger to the security of the United States.

In some cases, asylum officers and IJs would need to spend additional time during the credible fear process to determine whether an alien were ineligible for asylum or withholding of removal based on being reasonably regarded as a danger to the security of the United States. However, the overall impact on the time spent making (and, in the case of IJs, reviewing) screening determinations would be minimal. Additionally, the Departments do not expect the proposed changes to increase the adjudication time for immigration court proceedings. The Departments note that the proposed changes may result in fewer asylum and withholding and deferral of removal grants annually.

Upon a determination of an emergency public health concern under 8 CFR 208.13 and 1208.13, aliens placed into expedited removal proceedings who exhibit symptoms of a designated communicable disease, have come into contact with the disease, or were present in an impacted region preceding entry anytime within the number of days equivalent to the longest known incubation and contagion period for the disease may be examined for symptoms or recent contact with the disease and removed on the ground that they are a danger to the security of the United States (unless they have demonstrated that it is more likely than not that they will be tortured in the prospective country of removal, in which case they will be placed either in 240 proceedings or removed to a third country). Those in 240 proceedings will be ineligible for asylum or withholding of removal. The bar would not apply to aliens who had before the date of a public health emergency declaration or joint Secretary-Attorney General determination (1) affirmatively filed asylum or withholding applications, or (2) indicated a fear of return in expedited removal proceedings.

However, because cases are inherently fact-specific, and because there may be multiple bases for denying relief or protection, neither DOJ nor DHS can quantify precisely the expected decrease in grants of relief. The full extent of the impacts on this population is unclear and would depend on the specific circumstances and personal characteristics of each alien, and neither DOJ nor DHS collects such data at such a level of granularity. Finally, the proposed changes may also result in fewer aliens being placed in 240 proceedings to the extent that DHS exercises its discretion to remove aliens to third countries. However, as these will be discretionary decisions, it is not possible to quantify the reduction.

This proposed rule is a significant regulatory action under Executive Order 12866, though not an economically significant regulatory action. Accordingly, the Office of Management and Budget has reviewed this proposed regulation.

E. Executive Order 13132 (Federalism)

This proposed rule would not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Departments believe that this rule would not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988 (Civil Justice Reform)

This proposed rule meets the applicable standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988.

G. Paperwork Reduction Act

This proposed rule does not propose new, or revisions to existing, ''collection[s] of information'' as that term is defined under the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320.

H. Signature for DHS

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

List of Subjects

8 CFR Part 208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 1208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

Proposed Regulatory Amendments

DEPARTMENT OF HOMELAND SECURITY

Accordingly, for the reasons set forth in the preamble, the Acting Secretary of Homeland Security proposes to amend 8 CFR part 208 as follows:

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

■ 1. The authority citation for part 208 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1158, 1226, 1252, 1282; Title VII of Pub. L. 110–229; 8 CFR part 2; Pub. L. 115–218.

■ 2. Further amend § 208.13, as proposed to be amended at 84 FR 69659, by adding paragraph (c)(10) to read as follows:

§ 208.13 Establishing asylum eligibility.

* * * * *

(c) * * *

(10) *Aliens who pose a danger to the security of the United States.* In determining whether there are reasonable grounds for regarding an alien or a class of aliens as a danger to the security of the United States under section 208(b)(2)(A)(iv) of the Act, the Secretary of Homeland Security may consider whether the alien exhibits symptoms consistent with being afflicted with any contagious or infectious disease or has come into contact with such disease, or whether the alien or class of aliens is coming from a country, or a political subdivision or region of that country, or has embarked at a place, where such disease is prevalent or epidemic (or had come from that country, subdivision, or region, or had embarked at that place, during a period in which the disease was prevalent or epidemic there), if:

(i) The disease has triggered an ongoing declaration of a public health emergency under Federal law, including under section 319 of the Public Health Service Act, 42 U.S.C. 247d, or section 564 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 360bbb–3; or

(ii) The Secretary and the Attorney General have, in consultation with the Secretary of Health and Human Services, jointly:

(A) Determined that because the disease is a communicable disease of public health significance (in accordance with regulations prescribed by the Secretary of Health and Human Services (42 CFR 34.2(b))) that is prevalent or epidemic in another country or countries (or one or more political subdivisions or regions thereof) or place or places, the physical presence in the United States of aliens who are coming from such country or countries (or one or more subdivisions or regions thereof) or have embarked at that place or places (or had come from that country or countries (or one or more subdivisions or regions thereof) or had embarked at that place or places during a period in which the disease was prevalent or epidemic there) would cause a danger to the public health in the United States; and

(B) Designated the foreign country or countries (or one or more political subdivisions or regions thereof) or place or places and the period of time or circumstances under which the Secretary and the Attorney General jointly deem it necessary for the public health that aliens described in paragraph (c)(10)(ii)(A) of this section who either are still within the number of days equivalent to the longest known incubation and contagion period for the disease or exhibit symptoms indicating they are afflicted with the disease be regarded as a danger to the security of the United States under section 208(b)(2)(A)(iv) of the Act, including any relevant exceptions as appropriate.

■ 3. Amend § 208.16 by revising paragraphs (d)(2) and (f) to read as follows:

§ 208.16 Withholding of removal under section 241(b)(3)(B) of the Act and withholding of removal under the Convention Against Torture.

* * * * *

(d) * * *

(2) *Mandatory denials.* Except as provided in paragraph (d)(3) of this section, an application for withholding of removal under section 241(b)(3) of the Act or under paragraph (c) of this section shall be denied if the applicant falls within section 241(b)(3)(B) of the Act or, for applications for withholding of deportation adjudicated in proceedings commenced prior to April 1, 1997, within section 243(h)(2) of the Act as it appeared prior to that date. For purposes of section 241(b)(3)(B)(ii) of the Act, or section 243(h)(2)(B) of the Act as it appeared prior to April 1, 1997, an alien who has been convicted of a particularly serious crime shall be considered to constitute a danger to the community. If the evidence indicates the applicability of one or more of the grounds for denial of withholding enumerated in the Act, the applicant shall have the burden of proving by a preponderance of the evidence that such grounds do not apply. In determining whether an alien or a class of aliens can reasonably be regarded as a danger to the security of the United States under section 241(b)(3)(B)(iv) of the Act, the Secretary of Homeland Security may consider whether the alien exhibits symptoms consistent with being afflicted with any contagious or infectious disease or has come into contact with such disease, or whether the alien or class of aliens is coming from a country, or political subdivision or region of a country, or has embarked at a place, where such disease is prevalent or epidemic (or had come from that country, subdivision, or region, or had embarked at that place, during a period in which the disease was prevalent or epidemic there), if:

(i) The disease has triggered an ongoing declaration of a public health emergency under Federal law, including under section 319 of the Public Health Service Act, 42 U.S.C. 247d, or section 564 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 360bbb–3; or

(ii) The Secretary and the Attorney General have, in consultation with the Secretary of Health and Human Services, jointly:

(A) Determined that because the disease is a communicable disease of public health significance (in accordance with regulations prescribed by the Secretary of Health and Human Services (42 CFR 34.2(b))) that is prevalent or epidemic in another country or countries (or one or more political subdivisions or regions thereof) or place or places, that the physical presence in the United States of aliens who are coming from such country or countries (or one or more political subdivisions or regions thereof) or have embarked at that place or places (or had come from that country or countries (or one or more subdivisions or regions thereof) or had embarked at that place or places during a period in which the disease was prevalent or epidemic there) would cause a danger to the public health in the United States; and

(B) Designated the foreign country or countries (or one or more political subdivisions or regions thereof) or place or places and the period of time or circumstances under which the Secretary and the Attorney General jointly deem it necessary for the public

health that aliens described in paragraph (d)(2)(ii)(A) of this section who either are still within the number of days equivalent to the longest known incubation and contagion period for the disease or exhibit symptoms indicating they are afflicted with the disease be regarded as a danger to the security of the United States under section 241(b)(3)(B)(iv) of the Act, including any relevant exceptions as appropriate.

* * * * *

(f) *Removal to third country.* (1) Nothing in this section or § 208.17 shall prevent the Department from removing an alien requesting protection to a third country other than a country to which removal is currently withheld or deferred.

(2) If an alien requests withholding or deferral of removal to his or her home country or another specific country, nothing in this section or § 208.17 precludes the Department from removing the alien to a third country prior to a determination or adjudication of the alien's initial request for withholding or deferral of removal if the alien has not established that his or her life or freedom would be threatened on account of a protected ground in that third country and that he or she is not subject to the mandatory bar to eligibility for withholding of removal under section 241(b)(3)(B)(iv) of the Act, or that it is more likely than not that he or she would be tortured in that third country. However, such a removal shall be executed only if the alien was:

(i) Advised at the time of requesting withholding or deferral of removal of the possibility of being removed to a third country prior to a determination or adjudication of the same under the conditions set forth in this paragraph (f); and

(ii) Provided, but did not accept, an opportunity to withdraw the request for withholding or deferral of removal in order to prevent such removal and, instead, proceed to removal pursuant to section 241(b) of the Act, as appropriate.

■ 4. Add § 208.25 to read as follows:

§ 208.25 Severability.

The provisions of this part are separate and severable from one another. In the event that any provision in this part is stayed, enjoined, not implemented, or otherwise held invalid, the remaining provisions shall nevertheless be implemented as independent rules and continue in effect.

■ 5. Amend § 208.30 by revising paragraphs (e)(1), (3), and (4) and (e)(5)(i) and (iii) to read as follows:

§ 208.30 Credible fear determinations involving stowaways and applicants for admission who are found inadmissible pursuant to section 212(a)(6)(C) or 212(a)(7) of the Act, whose entry is limited or suspended under section 212(f) or 215(a)(1) of the Act, or who failed to apply for protection from persecution in a third country where potential relief is available while en route to the United States.

* * * * *

(e) * * *

(1) Subject to paragraph (e)(5) of this section, the asylum officer shall create a written record of his or her determination, including a summary of the material facts as stated by the applicant, any additional facts relied on by the officer, and the officer's determination of whether, in light of such facts, the alien has established a credible fear of persecution or torture.

* * * * *

(3) Subject to paragraph (e)(5) of this section, an alien will be found to have a credible fear of torture if the alien shows that there is a significant possibility that he or she is eligible for withholding of removal pursuant to § 208.16(c), a regulation issued pursuant to the legislation implementing the Convention Against Torture.

(4) Subject to paragraph (e)(5) of this section, in determining whether the alien has a credible fear of persecution, as defined in section 235(b)(1)(B)(v) of the Act, or a credible fear of torture, the asylum officer shall consider whether the alien's case presents novel or unique issues that merit consideration in a full hearing before an immigration judge (IJ).

(5)(i) Except as provided in paragraph (e)(5)(ii) through (iv), (e)(6), or (e)(7) of this section, if an alien:

(A) Is able to establish a credible fear of persecution but appears to be subject to one or more of the mandatory bars to applying for, or being granted, asylum under section 208(a)(2) and 208(b)(2)(A)(i)–(iii), (v)–(vi) of the Act, or withholding of removal under section 241(b)(3)(B)(i)–(iii) of the Act, the Department of Homeland Security shall nonetheless place the alien in proceedings under section 240 of the Act for full consideration of the alien's claim, if the alien is not a stowaway. If the alien is a stowaway, the Department shall place the alien in proceedings for consideration of the alien's claim pursuant to § 208.2(c)(3).

(B) Would be able to establish a credible fear of persecution but for the fact that he or she is subject to the mandatory bars to eligibility for asylum under section 208(b)(2)(A)(iv) of the Act and to withholding of removal under section 241(b)(3)(B)(iv) of the Act, but nevertheless establishes that it is more likely than not that he or she would be tortured in the prospective country of removal, the Department of Homeland Security may, in the unreviewable discretion of the Secretary, either place the alien in proceedings under section 240 of the Act for full consideration of the alien's claim, or remove the alien to another country.

(*1*) If the Department places the alien in proceedings under section 240 of the Act, then the IJ shall review all issues de novo, including whether the alien has established that it is more likely than not that he or she would be tortured in the prospective country of removal.

(*2*) If the Department decides to remove the alien to another country, it shall do so in a manner consistent with section 241 of the Act and 8 CFR 241.15, including by not removing the alien to a country where the alien has established that his or her life or freedom would be threatened because of the alien's race, religion, nationality, membership in a particular social group, or political opinion (if the alien has also established that he or she is not subject to any mandatory bar to eligibility for withholding of removal under section 241(b)(3)(B) of the Act), or to a country where the alien has established that he or she would more likely than not be tortured. Further, such a removal shall be executed only if the alien was:

(*i*) Advised at the time of requesting withholding or deferral of removal of the possibility of being removed to a third country prior to a determination or adjudication of the same under the conditions set forth in this paragraph (e)(5)(i); and

(*ii*) Provided, but did not accept, an opportunity to withdraw the request for withholding or deferral of removal in order to prevent such removal and, instead, proceed to removal pursuant to section 241(b) of the Act, as appropriate.

(*3*) If the alien fails to affirmatively establish, during an interview with the asylum officer, that it is more likely than not that he or she would be tortured in the prospective country of removal, then the asylum officer will provide the alien with a written notice of decision that will be subject to IJ review consistent with paragraph (g) of this section. If the alien is a stowaway, the Department shall place the alien in proceedings for consideration of the alien's claim pursuant to § 208.2(c)(3).

* * * * *

(iii) If the alien is found to be an alien described as ineligible for asylum in § 208.13(c)(4), then the asylum officer shall enter a negative credible fear determination with respect to the alien's

intention to apply for asylum. If the alien:

(A) Establishes a reasonable fear of persecution or torture (as both terms are defined in § 208.31(c), except that the bar to eligibility for withholding of removal under section 241(b)(3)(B)(iv) of the Act shall be considered); or

(B) Would be able to establish a reasonable fear of torture (as defined in § 208.31(c)) but for the fact that he or she is subject to the mandatory bar to eligibility for withholding of removal under section 241(b)(3)(B)(iv) of the Act, but nevertheless affirmatively establishes that it is more likely than not that he or she would be tortured in the prospective country of removal, the Department of Homeland Security may, in the unreviewable discretion of the Secretary, either place the alien in proceedings under section 240 of the Act for consideration of the alien's claim for withholding of removal under section 241(b)(3) of the Act or under the Convention Against Torture, or remove the alien to another country.

(*1*) If the Department places the alien in proceedings under section 240 of the Act, then the IJ shall review all issues de novo, including whether the alien has established that it is more likely than not that he or she would be tortured in the prospective country of removal.

(*2*) If the Department decides to remove the alien to another country, it shall do so in a manner consistent with section 241(b)(2) of the Act and 8 CFR 241.15, including by not removing the alien to a country where the alien has established that his or her life or freedom would be threatened because of the alien's race, religion, nationality, membership in a particular social group, or political opinion (if the alien has also established that he or she is not subject to any mandatory bar to eligibility for withholding of removal under section 241(b)(3)(B) of the Act), or to a country where the alien has established that he or she would more likely than not be tortured. Further, such a removal shall be executed only if the alien was:

(*i*) Advised at the time of requesting withholding or deferral of removal of the possibility of being removed to a third country prior to a determination or adjudication of the same under the conditions set forth in this paragraph (e)(5)(iii); and

(*ii*) Provided, but did not accept, an opportunity to withdraw the request for withholding or deferral of removal in order to prevent such removal and, instead, proceed to removal pursuant to section 241(b) of the Act, as appropriate.

(*3*) If the alien fails to affirmatively establish, during the interview with the asylum officer, that it is more likely than not that the alien would be tortured in the prospective country of removal, then the asylum officer will provide the alien with a written notice of decision, which will be subject to IJ review consistent with paragraph (g) of this section. If the alien is a stowaway, the Department shall place the alien in proceedings for consideration of the alien's claim pursuant to § 208.2(c)(3).

* * * * *

DEPARTMENT OF JUSTICE

Accordingly, for the reasons set forth in the preamble, the Attorney General proposes to amend 8 CFR part 1208 as follows:

PART 1208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

■ 6. The authority citation for part 1208 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1158, 1226, 1252, 1282; Title VII of Pub. L. 110–229; Pub. L. 115–218.

■ 7. Further amend § 1208.13, as proposed to be amended at 84 FR 69660, by adding paragraph (c)(10) to read as follows:

§ 1208.13 Establishing asylum eligibility.

* * * * *

(c) * * *

(10) *Aliens who pose a danger to the security of the United States.* In determining whether an alien or a class of aliens can reasonably be regarded as a danger to the security of the United States under section 208(b)(2)(A)(iv) of the Act, the Attorney General may consider whether the alien exhibits symptoms consistent with being afflicted with any contagious or infectious disease or has come into contact with such a disease, or whether the alien or class of aliens is coming from a country, or a political subdivision or region of a country, or has embarked at a place, where such disease is prevalent or epidemic (or had come from that country, subdivision, or region, or had embarked at that place, during a period in which the disease was prevalent or epidemic there), if:

(i) The disease has triggered an ongoing declaration of a public health emergency under Federal law, including under section 319 of the Public Health Service Act, 42 U.S.C. 247d, or section 564 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 360bbb–3; or

(ii) The Attorney General and the Secretary of Homeland Security have, in consultation with the Secretary of Health and Human Services, jointly:

(A) Determined that because the disease is a communicable disease of public health significance (in accordance with regulations prescribed by the Secretary of Health and Human Services (42 CFR 34.2(b))) that is prevalent or epidemic in another country or countries (or one or more political subdivisions or regions thereof) or place or places, the physical presence in the United States of aliens who are coming from such country or countries (or one or more political subdivisions or regions thereof) or have embarked at that place or places (or had come from that country or countries (or one or more subdivisions or regions thereof) or embarked at that place or places during a period in which the disease was prevalent or epidemic there), would cause a danger to the public health in the United States; and

(B) Designated the foreign country or countries (or one or more political subdivisions or regions thereof) or place or places and the period of time or circumstances under which the Attorney General and the Secretary of Homeland Security jointly deem it necessary for the public health that aliens described in paragraph (c)(10)(ii)(A) who either are still within the number of days equivalent to the longest known incubation and contagion period for the disease or exhibit symptoms consistent with being afflicted with the disease be regarded as a danger to the security of the United States under section 208(b)(2)(A)(iv) of the Act, including any relevant exceptions as appropriate.

■ 8. Amend § 1208.16 by revising paragraphs (d)(2) and (f) to read as follows:

§ 1208.16 Withholding of removal under section 241(b)(3)(B) of the Act and withholding of removal under the Convention Against Torture.

* * * * *

(d) * * *

(2) *Mandatory denials.* Except as provided in paragraph (d)(3) of this section, an application for withholding of removal under section 241(b)(3) of the Act or under paragraph (c) of this section shall be denied if the applicant falls within section 241(b)(3)(B) of the Act or, for applications for withholding of deportation adjudicated in proceedings commenced prior to April 1, 1997, within section 243(h)(2) of the Act as it appeared prior to that date. For purposes of section 241(b)(3)(B)(ii) of the Act, or section 243(h)(2)(B) of the Act as it appeared prior to April 1, 1997, an alien who has been convicted of a particularly serious crime shall be considered to constitute a danger to the

community. If the evidence indicates the applicability of one or more of the grounds for denial of withholding enumerated in the Act, the applicant shall have the burden of proving by a preponderance of the evidence that such grounds do not apply. In determining whether an alien or a class of aliens can reasonably be regarded as a danger to the security of the United States under section 241(b)(3)(B)(iv) of the Act, the Attorney General may consider whether the alien exhibits symptoms consistent with being afflicted with any contagious or infectious disease or has come into contact with such disease, or whether the alien or class of aliens is coming from a country, or a political subdivision or region of a country, or has embarked at a place, where such disease is prevalent or epidemic (or had come from that country, subdivision, or region, or embarked at that place, during a period in which the disease was prevalent or epidemic there), if:

(i) The disease has triggered an ongoing declaration of a public health emergency under Federal law, including under section 319 of the Public Health Service Act, 42 U.S.C. 247d, or section 564 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 360bbb–3; or

(ii) The Attorney General and the Secretary of Homeland Security have, in consultation with the Secretary of Health and Human Services, jointly:

(A) Determined that because the disease is a communicable disease of public health significance (in accordance with regulations prescribed by the Secretary of Health and Human Services (42 CFR 34.2(b))) that is prevalent or epidemic in another country or countries (or one or more political subdivisions or regions thereof) or place or places, the physical presence in the United States of aliens who are coming from such country or countries (or one or more subdivisions or regions thereof) or have embarked at that place or places (or had come from that country or countries (or one or more subdivisions or regions thereof) or embarked at that place or places during a period in which the disease was prevalent or epidemic there), would cause a danger to the public health in the United States; and

(B) Designated the foreign country or countries (or one or more political subdivisions or regions thereof) or place or places and the period of time or circumstances under which the Attorney General and the Secretary of Homeland Security jointly deem it necessary for the public health that aliens described in paragraph (d)(2)(ii)(A) of this section who either are still within the number of days equivalent to the longest known incubation and contagion period for the disease or exhibit symptoms indicating they are afflicted with the disease be regarded as a danger to the security of the United States under section 241(b)(3)(B)(iv) of the Act, including any relevant exceptions as appropriate.

* * * * *

(f) *Removal to third country.* (1) Nothing in this section or § 1208.17 shall prevent the Department of Homeland Security from removing an alien requesting protection to a third country other than a country to which removal is currently withheld or deferred.

(2) If an alien requests withholding or deferral of removal to the applicable home country or another specific country, nothing in this section or § 1208.17 precludes the Department of Homeland Security from removing the alien to a third country prior to a determination or adjudication of the alien's initial request for withholding or deferral of removal if the alien has not established that his or her life or freedom would be threatened on account of a protected ground in that third country and that he or she is not subject to the mandatory bar to eligibility for withholding of removal under section 241(b)(3)(B)(iv) of the Act, or that it is more likely than not that he or she would be tortured in that third country. However, such a removal shall be executed only if the alien was:

(i) Advised at the time of requesting withholding or deferral of removal of the possibility of being removed to a third country prior to a determination or adjudication of the same under the conditions set forth in this paragraph (f); and

(ii) Provided, but did not accept, an opportunity to withdraw the request for withholding or deferral of removal in order to prevent such removal and, instead, proceed to removal pursuant to section 241(b) of the Act, as appropriate.

■ 9. Add § 1208.25 to read as follows:

§ 1208.25 Severability.

The provisions of this part are separate and severable from one another. In the event that any provision in this part is stayed, enjoined, not implemented, or otherwise held invalid, the remaining provisions shall nevertheless be implemented as independent rules and continue in effect.

■ 10. Amend § 1208.30 by revising paragraphs (e) and (g)(2)(iv)(A) and (B) to read as follows:

§ 1208.30 Credible fear determinations involving stowaways and applicants for admission who are found inadmissible pursuant to section 212(a)(6)(C) or 212(a)(7) of the Act, whose entry is limited or suspended under section 212(f) or 215(a)(1) of the Act, or who failed to apply for protection from persecution in a third country where potential relief is available while en route to the United States.

* * * * *

(e) *Determination.* For the standards and procedures for asylum officers in conducting credible fear interviews and in making positive and negative credible fear determinations, see 8 CFR 208.30. The immigration judges will review such determinations as provided in paragraph (g)(2) of this section and 8 CFR 1003.42. If the alien is found to be an alien ineligible for asylum under § 1208.13(c)(4), (6), or (7), then the immigration judge shall find that the alien does not have a credible fear of persecution with respect to the alien's intention to apply for asylum. The immigration judge's decision is final and may not be appealed. This finding, as well as all other findings of a lack of credible or reasonable fear of persecution or torture made by immigration judges under section 235(b)(1)(B)(iii)(III) of the Act and § 1003.42 and paragraph (g) of this section, does not constitute a denial of an asylum application by an immigration judge under §§ 208.4(a)(3) of this title and 1208.4(a)(3).

* * * * *

(g) * * *

(2) * * *

(iv) * * *

(A) If the immigration judge concurs with the determinations of the asylum officer that the alien does not have a credible fear of persecution or torture or a reasonable fear of persecution or torture and that the alien has not affirmatively established that it is more likely than not that he or she would be tortured in the prospective country of removal, after having reviewed the asylum officer's reasonable fear findings under the reasonable fear standard (as defined in § 1208.31(c), except that the bar to eligibility for withholding of removal under section 241(b)(3)(B)(iv) of the Act shall be considered), and the officer's finding regarding whether the alien is more likely than not to be tortured under the more likely than not standard, then the case shall be returned to the Department of Homeland Security for removal of the alien. The immigration judge's decision is final and may not be appealed.

(B) If the immigration judge, after having reviewed the asylum officer's reasonable fear findings under the

reasonable fear standard and the officer's finding regarding whether the alien is more likely than not to be tortured under the more likely than not standard, finds that the alien, other than an alien stowaway, has a credible fear of persecution or torture or a reasonable fear of persecution or torture (as reasonable fear of persecution or torture is defined in § 1208.31(c), except that the bar to eligibility for withholding of removal under section 241(b)(3)(B)(iv) of the Act shall be considered), or has established that it is more likely than not that he or she would be tortured in the prospective country of removal, the immigration judge shall vacate the order of the asylum officer issued on Form I–860 and the Department of Homeland Security may commence removal proceedings under section 240 of the Act, during which time the alien may file an application for asylum or withholding of removal in accordance with § 1208.4(b)(3)(i), or remove the alien to a third country pursuant to 8 CFR 208.30(e)(5). If the Department of Homeland Security commences removal proceedings under section 240 of the Act, the immigration judge presiding in those proceedings shall consider all issues de novo, including whether the alien has established that it is more likely than not that he or she would be tortured in the prospective country of removal.

* * * * *

Approved:

Chad R. Mizelle,

Senior Official Performing the Duties of the General Counsel.

Approved: June 30, 2020.

William P. Barr,

Attorney General.

[FR Doc. 2020–14758 Filed 7–8–20; 8:45 am]

BILLING CODE 9111–97–P; 4410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0649; Product Identifier 2019–SW–061–AD]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Leonardo S.p.a. (Leonardo) Model AB139 and AW139 helicopters. This proposed AD would require removing certain engine mounting rods from service and prohibit their installation on any helicopter. This proposed AD was prompted by a report of non-conforming engine mounting rods. The actions of this proposed AD are intended to address an unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by September 8, 2020.

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

- *Federal eRulemaking Docket:* Go to *https://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0649; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Union Aviation Safety Agency (EASA) AD, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact Leonardo S.p.a. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Kristi Bradley, Aerospace Engineer, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *kristin.bradley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments received.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Kristi Bradley, Aerospace Engineer, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *kristin.bradley@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2019–0149, dated June 24, 2019, to correct an unsafe condition for Leonardo S.p.a. (formerly Finmeccanica S.p.A., AgustaWestland S.p.A., Agusta S.p.A.; and AgustaWestland Philadelphia Corporation, formerly Agusta Aerospace Corporation) Model AB139 and AW139 helicopters with certain serial numbered engine mounting rods part number (P/N) 3G7120V00132 installed. EASA advises of reports of a production non-conformity on a specific batch of these engine mounting rods. EASA further advises that this non-conformity degrades the material strength of the engine mounting rods.

EASA states this condition, if not corrected, could lead to failure of an affected engine mounting rod, possibly resulting in loss of control of the helicopter. Accordingly, the EASA AD requires removing from service each affected engine mounting rod, emailing a completed ''Scrap Report'' to Leonardo Helicopters Division, and installing a serviceable engine mounting rod. The EASA AD also prohibits installing an affected engine mounting rod on any helicopter.

FAA's Determination

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Leonardo Helicopters Alert Service Bulletin (ASB) No. 139–593, Revision A, dated June 14, 2019 (ASB 139–593, Revision A), for Model AB139 and AW139 helicopters. This service information specifies procedures to replace the engine outboard and inboard mounting rods from the Number 1 and Number 2 engines.

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

Other Related Service Information

The FAA reviewed Leonardo Helicopters ASB No. 139–593, dated June 11, 2019. This service information contains the same procedures as ASB 139–593, Revision A. However, ASB 139–593, Revision A expands the applicability from certain serial-numbered Model AB139 and AW139 helicopters to all Model AB139 and AW139 helicopters with affected engine mounting rods installed.

The FAA also reviewed Leonardo Helicopters AMP DM 39–A–71–21–05–00A–520A–B, AMP DM 39–A–71–21–05–00A–720A–B, AMP DM 39–A–71–21–06–00A–520A–B, AMP DM 39–A–71–21–06–00A–720A–B, AMP DM 39–A–71–21–07–00A–520A–B, AMP DM 39–A–71–21–07–00A–720A–B, AMP DM 39–A–71–21–08–00A–520A–B, and AMP DM 39–A–71–21–08–00A–720A–B, all dated October 4, 2019. This service information specifies instructions for removing and installing the outboard and inboard engine mounting rods.

Proposed AD Requirements

This proposed AD would require removing from service certain serial-numbered engine mounting rods P/N 3G7120V00132. This proposed AD would also prohibit installing an affected engine mounting rod on any helicopter.

Differences Between This Proposed AD and the EASA AD

The EASA AD requires emailing a completed ''Scrap Report'' to Leonardo Helicopters Division at the same compliance time as the engine mounting rod removal, whereas this proposed AD would not.

Costs of Compliance

The FAA estimates that this AD would affect up to 126 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Replacing an engine mounting rod would require about 8 work-hours per and parts would cost about $1,000 for an estimated cost of $1,680 per engine mounting rod.

According to Leonardo Helicopter's service information, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. The FAA does not control warranty coverage by Leonardo Helicopters. Accordingly, all costs are included in this cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

2. Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Leonardo S.p.a.: Docket No. FAA–2020–0649; Product Identifier 2019–SW–061–AD.

(a) Applicability

This AD applies to Leonardo S.p.a. Model AB139 and AW139 helicopters, certificated in any category, with an engine mounting rod part number (P/N) 3G7120V00132 with a serial number (S/N) listed in Figures 2 or 3 of Leonardo Helicopters Alert Service Bulletin No. 139–593, Revision A, dated June 14, 2019 (ASB 139–593), installed.

(b) Unsafe Condition

This AD defines the unsafe condition as a non-conforming engine mounting rod. This condition could result in structural failure of the engine mounting rod and subsequent loss of control of the helicopter.

(c) Comments Due Date

The FAA must receive comments by September 8, 2020.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Before further flight, determine the total hours time-in-service (TIS) of each engine mounting rod.

(2) Before reaching 225 total hours TIS or within 25 hours TIS, whichever occurs later, with the battery and any other electrical power supply disconnected, remove from service the engine mounting rod as follows:

(i) For the Number 1 engine outboard mounting rod, remove from service the Number 1 engine outboard mounting rod and install an airworthy Number 1 engine outboard mounting rod as shown in Detail ''B'' of Figure 1 of ASB 139–593 and by following the Accomplishment Instructions, paragraphs 3.1 and 3.2 of ASB 139–593, except you are not required to discard the Number 1 engine outboard mounting rod or comply with the ''Scrap Report'' instruction in paragraph 3.1 of ASB 139–593.

Note 1 to paragraph (e)(2)(i) through (iv) of this AD: Figure 1 of ASB 139–593 shows the engine outboard and inboard mounting rod assemblies for the left-hand side only, the right-hand side is symmetrical.

(ii) For the Number 1 engine inboard mounting rod, remove from service the Number 1 engine inboard mounting rod and install an airworthy Number 1 engine inboard mounting rod as shown in Detail ''C'' of Figure 1 of ASB 139–593 and by following the Accomplishment Instructions, paragraphs 3.3 and 3.4 of ASB 139–593, except you are not required to discard the Number 1 engine inboard mounting rod or comply with the ''Scrap Report'' instruction in paragraph 3.3 of ASB 139–593.

(iii) For the Number 2 engine outboard mounting rod, remove from service the Number 2 engine outboard mounting rod and install an airworthy Number 2 engine outboard mounting rod as shown in Detail ''B'' of Figure 1 of ASB 139–593 and by following the Accomplishment instructions, paragraphs 4.1 and 4.2 of ASB 139–593, except you are not required to discard the Number 2 engine outboard mounting rod or comply with the ''Scrap Report'' instruction in paragraph 4.1 of ASB 139–593.

(iv) For the Number 2 engine inboard mounting rod, remove from service the Number 2 engine inboard mounting rod and install an airworthy Number 2 engine inboard mounting rod as shown in Detail ''C'' of Figure 1 of ASB 139–593 and by following the Accomplishment instructions, paragraphs 4.3 and 4.4 of ASB 139–593, except you are not required to discard the Number 2 engine inboard mounting rod or comply with the ''Scrap Report'' instruction in paragraph 4.3 of ASB 139–593.

(3) As of the effective date of this AD, do not install on any helicopter an engine mounting rod with a P/N and S/N listed in paragraph (a) of this AD.

(f) Credit for Previous Actions

Actions accomplished before the effective date of this AD in accordance with the procedures specified in Leonardo Helicopters Alert Service Bulletin No. 139–593, dated June 11, 2019, are considered acceptable for compliance with the corresponding actions specified in paragraphs (e)(1) and (2) of this AD.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Kristi Bradley, Aerospace Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, the FAA suggests that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(h) Additional Information

(1) Leonardo Helicopters Alert Service Bulletin No. 139–593, dated June 11, 2019, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Leonardo S.p.a. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Union Aviation Safety Agency (EASA) AD No. 2019–0149, dated June 24, 2019. You may view the EASA AD on the internet at *https://www.regulations.gov* in the AD Docket.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 7120, Engine Mount Section.

Issued on July 1, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–14607 Filed 7–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0625; Product Identifier 2016–SW–007–AD]

RIN 2120–AA64

Airworthiness Directives; Various Restricted Category Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for various restricted category helicopters, originally manufactured by Sikorsky Aircraft Corporation (Sikorsky), Model EH–60A, HH–60L, S–70, S–70A, S–70C, S–70C(M), S–70C(M1), and UH–60A. This proposed AD would require initial and recurring inspections of the main rotor (M/R) blade spindle cuff for a crack. This proposed AD is prompted by multiple reports of a cracked M/R blade spindle cuff. The proposed actions are intended to prevent an unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by August 24, 2020.

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

- *Federal eRulemaking Docket:* Go to *https://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0625; or in person at Docket Operations

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

For service information identified in this proposed rule, contact your local Sikorsky Field Representative or Sikorsky's Service Engineering Group at Sikorsky Aircraft Corporation, 124 Quarry Road, Trumbull, CT 06611; telephone 1–800–Winged–S; email *wcs_cust_service_eng.gr-sik@lmco.com.* Operators may also log on to the Sikorsky 360 website at *https://www.sikorsky360.com.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Kristopher Greer, Aerospace Engineer, Boston ACO Branch, Compliance and Airworthiness Division, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone 781–238–7799; email *kristopher.greer@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments received.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Kristopher Greer, Aerospace Engineer, Boston ACO Branch, Compliance and Airworthiness Division, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone 781–238–7799; email *kristopher.greer@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA proposes to adopt a new AD for various restricted category helicopters, originally manufactured by Sikorsky, Model EH–60A, HH–60L, S–70, S–70A, S–70C, S–70C(M), S–70C(M1), and UH–60A, with an M/R blade spindle cuff part number 70150–09109–041 installed. This proposed AD would require initial and recurring inspections of the M/R blade spindle cuff for a crack.

This proposed AD is prompted by multiple reports of a cracked M/R blade spindle cuff. In 2008, Sikorsky reported an M/R blade spindle cuff on a Model UH–60A helicopter that cracked across the lower inboard bolt holes. Investigation determined the crack was caused by a non-conforming hole edge break, specifically a burr, introduced during an overhaul at a non-Sikorsky overhaul facility. Sikorsky issued Sikorsky Safety Advisory No. SSA–S70–08–002, dated December 11, 2008 (SSA–S70–08–002), for Black Hawk Model H–60- and S–70-series helicopters to inform operators of the incident and recommend compliance with Sikorsky's preventative maintenance inspections. The safety advisory also recommended that operators with M/R blades overhauled by a non-Sikorsky repair facility contact that facility to verify whether the hole edge radius requirement was met during the overhaul.

In 2015, the FAA received an additional report of an M/R blade spindle cuff on a military model helicopter that cracked. Investigation from this reporting has revealed no anomalies at the crack initiation site. In each instance, a crack initiated at a bolt hole and spread to either an adjacent bolt hole or to the free edge. Due to design similarity, Model EH–60A, HH–60L, S–70, S–70A, S–70C, S–70C(M), S–70C(M1), and UH–60A helicopters are all affected by this unsafe condition. The proposed actions are intended to detect a crack, prevent failure of an M/R blade spindle cuff, loss of an M/R blade, and loss of control of the helicopter.

FAA's Determination

The FAA is proposing this AD after evaluating all known relevant information and determining that an unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs.

Related Service Information

The FAA reviewed SSA–S70–08–002. This service information recommends, for helicopters with M/R blades overhauled by non-Sikorsky M/R blade repair facilities, contacting the facilities to verify whether the hole edge radius requirement was met during cuff replacement. The safety advisory also recommends operators conduct 10 hour/14 day visual inspections and follow the inspection procedures regarding sudden onset of low frequency vibration or an out of track condition.

The FAA also reviewed Sikorsky Technical Manual Preventative Maintenance Services 10 Hour/14 Day (30 Hour/42 Day) Inspection Checklist TM 1–70–PMS–1, dated December 1, 2014, for Sikorsky Model S–70 helicopters. This service information contains procedures for the 10 hour/14 day and 30 hour/42 day inspections.

Proposed AD Requirements

This proposed AD would require, using 10X or higher power magnification, visually inspecting each M/R blade spindle cuff for a crack, and replacing the M/R blade spindle cuff if there is a crack.

Costs of Compliance

The FAA estimates that this proposed AD affects 204 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor

costs are estimated at $85 per work-hour.

Inspecting the M/R blade spindle cuffs would take about 1 work-hour for an estimated cost of $85 per helicopter and $17,340 for the U.S. fleet. Replacing an M/R blade spindle cuff would take about 175 work-hours and required parts would cost about $10,000 for a total estimated replacement cost of $24,875 per M/R blade spindle cuff.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

2. Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Various Restricted Category Helicopters: Docket No. FAA–2020–0625; Product Identifier 2016–SW–007–AD.

(a) Applicability

This AD applies to various restricted category helicopters originally manufactured by Sikorsky Aircraft Corporation, Model EH–60A, HH–60L, S–70, S–70A, S–70C, S–70C(M), S–70C(M1), and UH–60A helicopters with a main rotor (M/R) blade spindle cuff part number 70150–09109–041 installed; type certificate holders include but are not limited to ACE Aeronautics, LLC; BHI H60 Helicopters, LLC; Billings Flying Service Inc.; Carson Helicopters; Delta Enterprise; High Performance Helicopters Corp.; Northwest Rotorcraft LLC; Pickering Aviation, Inc.; PJ Helicopters Inc.; Sikorsky Aircraft Corporation; SixtyHawk TC, LLC; Skydance Blackhawk Operations, LLC; Timberline Helicopters, Inc.; and Unical Aviation, Inc.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in an M/R blade spindle cuff. This condition could result in failure of an M/R blade spindle cuff, loss of an M/R blade, and loss of control of the helicopter.

(c) Comments Due Date

The FAA must receive comments by August 24, 2020.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

Before further flight, unless already done within the last 10 hours time-in-service (TIS), and thereafter at intervals not to exceed 10 hours TIS from the last inspection:

(1) Using 10X or higher power magnification, visually inspect each M/R blade spindle cuff for a crack. Pay particular attention to the area around each bolt hole and the upper and lower surfaces of the leading and trailing edges of each M/R blade spindle cuff.

(2) If there is a crack, replace the M/R blade spindle cuff before further flight.

(f) Alternative Methods of Compliance (AMOC)

(1) The Manager, Boston ACO Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Kristopher Greer, Aerospace Engineer, Boston ACO Branch, Compliance and Airworthiness Division, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone 781–238–7799; email *kristopher.greer@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, the FAA suggests that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

Sikorsky Safety Advisory No. SSA–S70–08–002, dated December 11, 2008, and Sikorsky Technical Manual Preventative Maintenance Services 10 Hour/14 Day (30 Hour/42 Day) Inspection Checklist 1–70–PMS–1, dated December 1, 2014, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact your local Sikorsky Field Representative or Sikorsky's Service Engineering Group at Sikorsky Aircraft Corporation, 124 Quarry Road, Trumbull, CT 06611; telephone 1–800–Winged–S; email *wcs_cust_service_eng.gr-sik@lmco.com.* Operators may also log on to the Sikorsky 360 website at *https://www.sikorsky360.com.* You may view a copy of information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6220, Main Rotor Head—Main Rotor Spindle Cuff.

Issued on July 2, 2020.

Ross Landes,

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

[FR Doc. 2020–14787 Filed 7–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 200702–0175]

RTID 0648–XP010

Pacific Island Pelagic Fisheries; 2020 U.S. Territorial Longline Bigeye Tuna Catch Limits

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

ACTION: Proposed specifications; request for comments.

SUMMARY: NMFS proposes a 2020 limit of 2,000 metric tons (t) of longline-

caught bigeye tuna for each U.S. Pacific territory (American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI)). NMFS would allow each territory to allocate up to 1,500 t each year to U.S. longline fishing vessels in a specified fishing agreement that meets established criteria, but the overall allocation limit among all territories may not exceed 3,000 t. As an accountability measure, NMFS would monitor, attribute, and restrict (if necessary) catches of longline-caught bigeye tuna, including catches made under a specified fishing agreement. The proposed catch limits and accountability measures would support the long-term sustainability of fishery resources of the U.S. Pacific Islands.

DATES: NMFS must receive comments by July 24, 2020.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2020–0078, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0078,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

The Western Pacific Fishery Management Council (Council) and NMFS prepared a supplemental environmental assessment (SEA), that describes the potential impacts on the human environment that could result from the proposed action. The SEA is available at *www.regulations.gov,* or from the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, *www.wpcouncil.org.*

FOR FURTHER INFORMATION CONTACT: Lynn Rassel, NMFS PIRO Sustainable Fisheries, 808–725–5184.

SUPPLEMENTARY INFORMATION: NMFS proposes to specify a 2020 catch limit of 2,000 t of longline-caught bigeye tuna for each U.S. Pacific territory. NMFS would also authorize each U.S. Pacific territory to allocate up to 1,500 t of its 2,000 t bigeye tuna limit, not to exceed a 3,000 t total annual allocation limit among all the territories, to U.S. longline fishing vessels that are permitted to fish under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP). Those vessels must be identified in a specified fishing agreement with the applicable territory. The Council recommended these specifications.

The proposed catch limits and accountability measures are identical to those that NMFS has specified for U.S. territories in each year since 2014. In previous years, each territory's allocation limit was 1,000 t, rather than the 1,500 t proposed in this action. Nonetheless, the overall allocation limit among all territories may not exceed 3,000 t for the year, which is consistent with previous years.

NMFS will monitor catches of longline-caught bigeye tuna by the longline fisheries of each U.S Pacific territory, including catches made by U.S. longline vessels operating under specified fishing agreements. The criteria that a specified fishing agreement must meet, and the process for attributing longline-caught bigeye tuna, will follow the procedures in 50 CFR 665.819. When NMFS projects that a territorial catch or allocation limit will be reached, NMFS would, as an accountability measure, prohibit the catch and retention of longline-caught bigeye tuna by vessels in the applicable territory (if the territorial catch limit is projected to be reached), and/or vessels in a specified fishing agreement (if the allocation limit is projected to be reached).

NMFS will consider public comments on the proposed action and draft supplemental environmental assessment, and will announce the final specifications in the **Federal Register**.

NMFS also invites public comments that address the impact of this proposed action on cultural fishing in American Samoa. On March 20, 2017, in *Territory of American Samoa* v. *NMFS, et al. (16–cv–95, D. Haw),* a Federal judge set aside a NMFS rule that amended the American Samoa Large Vessel Prohibited Area (LVPA) for eligible longliners on the grounds that NMFS did not consider under the Deeds of Cession the protection of cultural fishing in American Samoa. NMFS has appealed this decision, which is pending before the Ninth Circuit Court of Appeals.

NMFS must receive any comments on this proposed action by the date provided in the **DATES** heading. NMFS may not consider any comments not postmarked or otherwise transmitted by that date. Regardless of the final specifications, all other existing management measures will continue to apply in the longline fishery.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator for Fisheries has determined that this proposed specification is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation for the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that these proposed specifications, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed action would specify a 2020 limit of 2,000 t of longline-caught bigeye tuna for each U.S. Pacific territory. NMFS would also allow each territory to allocate up to 1,500 t of its 2,000 t limit, not to exceed an overall annual allocation limit of 3,000 t, to U.S. longline fishing vessels in a specified fishing agreement that meets established criteria set forth in 50 CFR 665.819. As an accountability measure, NMFS would monitor, attribute, and restrict (if necessary) catches of longline-caught bigeye tuna by vessels in the applicable U.S. territory (if the territorial catch limit is projected to be reached), or by vessels operating under the applicable specified fishing agreement (if the allocation limit is projected to be reached), or by vessels operating under the applicable specified fishing agreement (if the allocation limit is projected to be reached). Payments under the specified fishing agreements support fisheries development in the U.S. Pacific territories and the long-term sustainability of fishery resources of the U.S. Pacific Islands.

This proposed action would directly apply to longline vessels federally

permitted under the FEP, specifically Hawaii, American Samoa, and Western Pacific longline permit holders. Preliminary data shows that in 2019, 164 vessels had Hawaii longline permits, with 146 of these vessels actively participating in the fishery and 60 had American Samoa longline permits, with 17 of these vessels actively participating in the fishery (NMFS Pacific Island Fishery Science Center Economic Performance Measures, *inport.nmfs.noaa.gov/inport/item/46097*). There are no active Western Pacific general longline permitted vessels.

Based on dealer data collected by the State of Hawaii and the Pacific Fisheries Information Network, Hawaii longline vessels landed approximately 26.7 million lb (12,111 t) of pelagic fish valued at $94.7 million in 2019. With 146 vessels making either a deep- or shallow-set trip in 2019, the ex-vessel value of pelagic fish caught by Hawaii-based longline fisheries averaged almost $649,000 per vessel. In 2019, American Samoa-based longline vessels landed approximately 3.0 million lb (1,361 t) of pelagic fish valued at $3.9 million; albacore made up the largest proportion of pelagic longline commercial landings. With 17 active longline vessels in 2019, the ex-vessel value of pelagic fish caught by the American Samoa fishery averaged almost $230,000 per vessel.

NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. Based on available information, NMFS has determined that all vessels permitted federally under the FEP are small entities, *i.e.,* they are engaged in the business of fish harvesting (NAICS 114111), are independently owned or operated, are not dominant in their field of operation, and have annual gross receipts not in excess of $11 million. Even though this proposed action would apply to a substantial number of vessels, the implementation of this action would not result in significant adverse economic impact to individual vessels. The proposed action would potentially benefit the Hawaii longline fishermen by allowing them to fish under specified fishing agreements with a territory, which could extend fishing effort for bigeye tuna in the western Pacific and provide more bigeye tuna for markets in Hawaii and elsewhere.

In accordance with Federal regulations at 50 CFR part 300, subpart O, vessels that possess both an American Samoa and Hawaii longline permit are not subject to the U.S bigeye tuna limit. Therefore, these vessels may retain bigeye tuna and land fish in Hawaii after the date NMFS projects the fishery would reach that limit. Further, catches of bigeye tuna made by such vessels are attributed to American Samoa, provided the fish was not caught in the U.S. exclusive economic zone around Hawaii.

The 2020 U.S. bigeye tuna catch limit is 3,554 t, which is the same limit in place for 2019. NMFS will establish the 2020 U.S. bigeye tuna catch limit through a separate action. With regard to the 2019 fishing year, the fishery reached the limit and closed on July 27, 2019. However, NMFS had already begun attributing bigeye tuna caught by vessels listed in the specified fishing agreement with the CNMI, with that agreement made valid on July 19, 2019. On October 28, 2019, NMFS began attributing bigeye tuna catch to American Samoa, upon nearing the 2019 allocation limit for CNMI. NMFS temporarily reopened the U.S. pelagic fishery for bigeye tuna from December 23 through December 27, 2019, to allow the fishery to access the remainder of the available limit, as the fishery had not caught the entire 3,554 t limit. These combined measures enabled the U.S. fishery to fish throughout most of the year.

Through this proposed action, Hawaii-based longline vessels could potentially enter into one or more fishing agreements with participating territories. This would enhance the ability of these vessels to extend fishing effort in the western and central Pacific Ocean after reaching the 2020 U.S. limit and provide more bigeye tuna for markets in Hawaii. Providing opportunity to land bigeye tuna in Hawaii in the last quarter of the year when market demand is high will result in positive economic benefits for fishery participants and net benefits to the nation. Allowing participating territories to enter into specified fishing agreements under this action is consistent with Western and Central Pacific Fishery Commission (WCPFC) conservation and management objectives for bigeye tuna in Conservation and Management Measure 2018–01, and benefits the territories by providing funds for territorial fisheries development projects. Establishing a 2,000 t longline limit for bigeye tuna, where territories are not subject to WCPFC longline limits, is not expected to adversely affect vessels based in the territories.

Historical catches of bigeye tuna by the American Samoa longline fleet have been less than 2,000 t, including the catch of vessels based in American Samoa, catch by dual permitted vessels that land their catch in Hawaii, and catch attributed to American Samoa from U.S. vessels under specified fishing agreements. No longline fishing has occurred since 2011 in Guam and the CNMI.

Under the proposed action, longline fisheries managed under the FEP are not expected to expand substantially nor change the manner in which they are currently conducted, (*i.e.,* area fished, number of vessels longline fishing, number of trips taken per year, number of hooks set per vessel during a trip, depth of hooks, or deployment techniques in setting longline gear), due to existing operational constraints in the fleet, the limited entry permit programs, and protected species mitigation requirements. The proposed action does not duplicate, overlap, or conflict with other Federal rules and is not expected to have significant impact on small organizations or government jurisdictions. Furthermore, there would be little, if any, disproportionate adverse economic impacts from the proposed action based on gear type, or relative vessel size. The proposed action also will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities.

For the reasons above, NMFS does not expect the proposed action to have a significant economic impact on a substantial number of small entities. As such, an initial regulatory flexibility analysis is not required and none has been prepared.

This action is exempt from the procedures of Executive Order 12866.

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

Dated: July 6, 2020.

Samuel D. Rauch III,

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

[FR Doc. 2020–14818 Filed 7–8–20; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 85, No. 132

Thursday, July 9, 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

Office of the Secretary

Determination of Total Amounts of Fiscal Year 2021 WTO Tariff-Rate Quotas for Raw Cane Sugar and Certain Sugars, Syrups and Molasses

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: The Office of the Secretary of the Department of Agriculture (the Secretary) announces the establishment of the Fiscal Year (FY) 2021 (October 1, 2020–September 30, 2021) in-quota aggregate quantity of raw cane sugar at 1,117,195 metric tons raw value (MTRV), and the establishment of the FY 2021 in-quota aggregate quantity of certain sugars, syrups, and molasses (also referred to as refined sugar) at 162,000 MTRV.

DATES: This notice is applicable on July 9, 2020.

ADDRESSES: Multilateral Affairs Division, Trade Policy and Geographic Affairs, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1070, 1400 Independence Avenue SW, Washington, DC 20250–1070.

FOR FURTHER INFORMATION CONTACT: Souleymane Diaby, (202) 720–2916, *Souleymane.Diaby@usda.gov.*

SUPPLEMENTARY INFORMATION: The provisions of paragraph (a)(i) of the Additional U.S. Note 5, Chapter 17 in the U.S. Harmonized Tariff Schedule (HTS) authorize the Secretary to establish the in-quota tariff-rate quota (TRQ) amounts (expressed in terms of raw value) for imports of raw cane sugar and certain sugars, syrups, and molasses that may be entered under the subheadings of the HTS subject to the lower tier of duties during each fiscal year. The Office of the U.S. Trade Representative (USTR) is responsible for the allocation of these quantities among supplying countries and areas.

Section 359(k) of the Agricultural Adjustment Act of 1938, as amended, requires that at the beginning of the quota year the Secretary of Agriculture establish the TRQs for raw cane sugar and refined sugars at the minimum levels necessary to comply with obligations under international trade agreements, with the exception of specialty sugar.

The Secretary's authority under paragraph (a)(i) of the Additional U.S. Note 5, Chapter 17 in the HTS and Section 359(k) of the Agricultural Adjustment Act of 1938, as amended, has been delegated to the Under Secretary for Trade and Foreign Agricultural Affairs (7 CFR 2.26).

Notice is hereby given that I have determined, in accordance with paragraph (a)(i) of the Additional U.S. Note 5, Chapter 17 in the HTS and section 359(k) of the 1938 Act, that an aggregate quantity of up to 1,117,195 MTRV of raw cane sugar may be entered or withdrawn from warehouse for consumption during FY 2021. This is the minimum amount to which the United States is committed under the WTO Uruguay Round Agreements. The conversion factor is 1 metric ton raw value equals 1.10231125 short tons raw value. I have further determined that an aggregate quantity of 162,000 MTRV of sugars, syrups, and molasses (refined sugar) may be entered or withdrawn from warehouse for consumption during FY 2021. This quantity includes the minimum amount to which the United States is committed under the WTO Uruguay Round Agreements, 22,000 MTRV, of which 20,344 MTRV is established for any sugars, syrups and molasses, and 1,656 MTRV is reserved for specialty sugar. An additional amount of 140,000 MTRV is added to the specialty sugar TRQ for a total of 141,656 MTRV.

Because the specialty sugar TRQ is first-come, first-served, tranches are needed to allow for orderly marketing throughout the year. The FY 2021 specialty sugar TRQ will be opened in five tranches. The first tranche, totaling 1,656 MTRV, will open October 1, 2020. All specialty sugars are eligible for entry under this tranche. The second tranche of 40,000 MTRV will open on October 8, 2020. The third tranche of 40,000 MTRV will open on January 21, 2021. The fourth tranche of 30,000 MTRV will open on April 15, 2021. The fifth tranche of 30,000 MTRV will open on July 15, 2021. The second, third, fourth, and fifth tranches will be reserved for organic sugar and other specialty sugars not currently produced commercially in the United States or reasonably available from domestic sources.

Ted A. McKinney,

Under Secretary, Trade and Foreign Agricultural Affairs.

[FR Doc. 2020–14851 Filed 7–8–20; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Service Handbook 2309.13, Chapter 50; Operation and Maintenance of Developed Recreation Sites

AGENCY: Forest Service, USDA.

ACTION: Notice of availability for public comment.

SUMMARY: The United States Department of Agriculture (USDA), Forest Service is proposing to issue a proposed directive to update its handbook on operation and maintenance of recreation sites on National Forest System lands that contain infrastructure or amenities authorized by the Forest Service for public enjoyment and resource protection. Examples of developed recreation sites include boat launches, campgrounds, climbing areas, day use areas, picnic sites, fishing sites, group campgrounds and picnic sites, horse camps, informational and interpretive sites, visitor centers, recreation rental cabins, observation sites, off-highway vehicle staging areas, alpine and Nordic ski areas, developed swimming sites, snow play areas, target ranges, trailheads, and wildlife viewing sites.

DATES: Comments must be received in writing by August 10, 2020.

ADDRESSES: Comments may be submitted electronically to *https://cara.ecosystem-management.org/Public/CommentInput?project=ORMS-2226.* Written comments may be mailed to Director, Recreation Staff, 1400 Independence Avenue SW, Washington, DC 20250–1124. All timely received comments, including names and addresses, will be placed in the record and will be available for public inspection and copying. The public may

inspect comments received at *https://cara.ecosystem-management.org/Public/ReadingRoom?project=ORMS-2226.*

FOR FURTHER INFORMATION CONTACT: Matt Arnn, Recreation Staff, (917) 597–6488, *matthew.arnn@usda.gov* or *joey.perry@usda.gov.* Individuals who use telecommunication devices for the deaf may call the Federal Relay Service at 800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: This handbook sets forth direction for the operation and maintenance of recreation sites by the Forest Service. Chapter 50 recodes to this Forest Service Handbook chapter direction that is currently set out in FSM 2332 governing construction, operation, and maintenance of recreation sites by the Forest Service. In addition, Chapter 50 includes direction on procedures for assuming operation of a concession site during a shoulder season.

After the public comment period closes, the Forest Service will consider timely comments that are within the scope of the proposed directives in the development of the final directives. A notice of the final directives, including a response to timely comments, will be posted on the Forest Service's web page at *https://www.fs.fed.us/about-agency/regulations-policies.*

Tina Johna Terrell,

Associate Deputy Chief, National Forest System.

[FR Doc. 2020–14785 Filed 7–8–20; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Colorado 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 Colorado Advisory Committee to the Commission will convene by conference call on Wednesday, July 15, 2020 at 2:00 p.m. The purpose of the meeting is to review a statement of concern on the naturalization backlog.

DATES: Wednesday, July 15, 2020 at 2:00 p.m. (MDT).

Public Call-In Information: 1–800–367–2403; Conference ID: 9178397.

FOR FURTHER INFORMATION CONTACT: Barbara Delaviez, *ero@usccr.gov* or by phone at 202–539–8246.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–800–367–2403; Conference ID: 9178397.

Please be advised that, before being placed into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number provided.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call number: 1–800–367–2403; Conference ID: 9178397.

Members of the public are invited to make statements during the open comment period of the meeting or email written comments. Written comments may be emailed to Barbara Delaviez at *ero@usccr.gov* approximately 30 days after each scheduled meeting. Persons who desire additional information may also contact Barbara Delaviez at (202) 539–8246.

Records and documents discussed during the meeting will be available for public viewing as they become available at this FACA Link; click the ''Meeting Details'' and ''Documents'' links. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact Evelyn Bohor at the above phone number or email address.

Agenda: Wednesday, July 15, 2020 at 2:00 p.m. (MDT)

I. Roll Call

II. Review Statement of Concern on the Naturalization Backlog

III. Other Business

IV. Open Comment

V. Adjournment

Dated: July 2, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–14783 Filed 7–8–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–13–2020]

Foreign-Trade Zone (FTZ) 124—Gramercy, Louisiana; Authorization of Production Activity; Offshore Energy Services, Inc.; (Line Pipe With Weld-On Housings and Connectors); Broussard, Louisiana

On March 5, 2020, the Port of South Louisiana, grantee of FTZ 124, submitted a notification of proposed production activity to the FTZ Board on behalf of Offshore Energy Services, Inc., within Subzone 124T, in Broussard, Louisiana.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (85 FR 14460, March 12, 2020). On July 6, 2020, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: July 6, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020–14800 Filed 7–8–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–81–2020]

Approval of Expansion of Subzone 7F; Puma Energy Caribe, LLC, Carolina, Puerto Rico

On May 11, 2020, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Puerto Rico Industrial Development Company, grantee of FTZ 7, requesting an expansion of Subzone 7F subject to the existing activation limit of FTZ 7, on behalf of Puma Energy Caribe, LLC, in Carolina, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (85 FR 20397, May 15, 2020). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15

CFR Sec. 400.36(f)), the application to expand Subzone 7F was approved on July 6, 2020, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 7's 2,000-acre activation limit.

Dated: July 6, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020–14814 Filed 7–8–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–15–2020]

Foreign-Trade Zone (FTZ) 106—Oklahoma City, Oklahoma; Authorization of Production Activity; PRO–PIPE USA, LLC; (High-Density Polyethylene Pipe); Shawnee, Oklahoma

On March 5, 2020, PRO–PIPE USA, LLC submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 106, in Shawnee, Oklahoma.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (85 FR 14883, March 16, 2020). On July 6, 2020, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: July 6, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020–14798 Filed 7–8–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–14–2020]

Foreign-Trade Zone (FTZ) 230—Piedmont Triad Area, North Carolina; Authorization of Production Activity; LLFlex, LLC; (Aluminum Foil Paper Laminate, Foil-Backed Paperboard, Coated Paper, Coated Paperboard, and Cable Wrap); High Point, North Carolina

On March 6, 2020, the Piedmont Triad Partnership, grantee of FTZ 230, submitted a notification of proposed production activity to the FTZ Board on behalf of LLFlex, LLC, within FTZ 230, in High Point, North Carolina.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (85 FR 14882–14883, March 16, 2020). On July 6, 2020, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: July 6, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020–14799 Filed 7–8–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Advisory Committee on Earthquake Hazards Reduction Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: National Institute of Standards and Technology (NIST)'s Advisory Committee on Earthquake Hazards Reduction (ACEHR or Committee) will hold a virtual meeting via web conference on Monday, November 9, 2020, from 1:00 p.m. to 4:00 p.m. Eastern Time and Tuesday, November 10, 2020, from 1:00 p.m. to 4:00 p.m. Eastern Time. The primary purpose of this meeting is for the Committee to review the activities of the National Earthquake Hazards Reduction Program (NEHRP) and work on their 2021 biennial Report on the Effectiveness of NEHRP. The agenda may change to accommodate Committee business. The final agenda and any meeting materials will be posted on the NEHRP website at *http://nehrp.gov/.*

DATES: The ACEHR will meet on Monday, November 9, 2020, from 1:00 p.m. to 4:00 p.m. Eastern Time and Tuesday, November 10, 2020, from 1:00 p.m. to 4:00 p.m. Eastern Time.

ADDRESSES: The meeting will be held virtually via web conference. For instructions on how to participate in the meeting, please see the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Tina Faecke, Management and Program Analyst, National Earthquake Hazards Reduction Program (NEHRP), Engineering Laboratory, NIST, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, Maryland 20899–8604. Ms. Faecke's email address is *tina.faecke@nist.gov* and her phone number is (240) 477–9841.

SUPPLEMENTARY INFORMATION:

Authority: 42 U.S.C. 7704(a)(5) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App. The Committee is composed of 11 members, appointed by the Director of NIST, who were selected for their established records of distinguished service in their professional community, their knowledge of issues affecting NEHRP, and to reflect the wide diversity of technical disciplines, competencies, and communities involved in earthquake hazards reduction. In addition, the Chairperson of the U.S. Geological Survey Scientific Earthquake Studies Advisory Committee serves as an ex-officio member of the Committee.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the ACEHR will meet on Monday, November 9, 2020, from 1:00 p.m. to 4:00 p.m. Eastern Time and Tuesday, November 10, 2020, from 1:00 p.m. to 4:00 p.m. Eastern Time. The meeting will be open to the public, and will be held via web conference. Interested members of the public will be able to participate in the meeting from remote locations. The primary purpose of this meeting is for the Committee to review the activities of NEHRP and work on their 2021 biennial Report on the Effectiveness of NEHRP. The agenda may change to accommodate Committee business. The final agenda and any meeting materials will be posted on the NEHRP website at *http://nehrp.gov/.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's business are invited to request a place on the agenda. Approximately fifteen minutes will be reserved for public comments and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received. Questions from the public will not be considered during this period. All those wishing to speak must submit their request by email to *tina.faecke@nist.gov* by 5:00 p.m. Eastern Time, Monday, October 5, 2020. Speakers who wish to expand upon their oral statements, those who wish to speak but cannot be accommodated on the agenda, and those who are unable to attend remotely are invited to electronically submit written

statements by email to *tina.faecke@nist.gov.*

Anyone wishing to attend this meeting via web conference must register by 5:00 p.m. Eastern Time, Monday, October 5, 2020. Please submit your full name, email address, and phone number to Tina Faecke at *tina.faecke@nist.gov.*

Kevin A. Kimball,

Chief of Staff.

[FR Doc. 2020–14764 Filed 7–8–20; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA272]

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.

SUMMARY: The New England Fishery Management Council's is convening its Scientific and Statistical Committee (SSC) via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Wednesday, July 29, 2020 at 9 a.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/8864375301302052110.* Call in information: +1 (631) 992–3221, Access Code: 187–045–964.

ADDRESSES: *Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scientific and Statistical Committee will meet to review information provided by the Council's Herring Plan Development Team, the results of recent Atlantic herring management track stock assessment and using the acceptable biological catch (ABC) control rule selected by the Council, recommend the overfishing level (OFL) and the ABCs for Atlantic herring for fishing years 2021 and 2023. Discuss other business 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: July 6, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–14830 Filed 7–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA259]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Bluefish Monitoring Committee will hold a meeting.

DATES: The meeting will be held on Tuesday, July 28, 2020, beginning at 9 a.m. and concluding by 12 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held via webinar with a telephone-only connection option.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their website at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for the Bluefish Monitoring Committee to review and/or revise the 2021 annual catch limits, trip limits, discard estimates, and other management measures for the bluefish fishery. The Monitoring Committee will also offer comments on the status of the Bluefish Allocation and Rebuilding Amendment.

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: July 6, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–14828 Filed 7–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA270]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Summer Flounder, Scup, and Black Sea Bass Monitoring Committee will hold a public webinar meeting.

DATES: The meeting will be held on Monday, July 27, 2020, from 9:30 a.m. to 4:30 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held via webinar, which can be accessed at: *http://mafmc.adobeconnect.com/sfsbsb-mc-july2020/.* Meeting audio can be accessed by following the prompts which appear after logging into the webinar, or via telephone by dialing 1–800–832–0736 and entering room number 5068871.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Summer Flounder, Scup, and Black Sea Bass Monitoring Committee will meet via webinar to discuss management measures for all three species. The objectives of this meeting are for the Monitoring Committee to: (1) Review recent fishery performance and management measure recommendations from the Advisory Panel, the Scientific and Statistical Committee, and staff; (2) Review, and if appropriate, recommend changes to the previously implemented 2021 commercial and recreational Annual Catch Limits, Annual Catch Targets, commercial quotas, and recreational harvest limits for summer flounder, scup, and black sea bass; (3) Review commercial management measures for all three species and recommend changes if needed; (4) Review analysis of commercial scup discards and consider if any management response is needed; and (5) Review the February recreational black sea bass fishery and recommend changes for February 2021 if needed. Meeting materials will be posted to *www.mafmc.org.*

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office (302) 526–5251 at least 5 days prior to the meeting date.

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

Dated: July 6, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–14829 Filed 7–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2020–SCC–0109]

Agency Information Collection Activities; Comment Request; CARES Act Programs; Equitable Services to Students and Teachers in Non-Public Schools

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is requesting the Office of Management and Budget (OMB) to conduct an emergency review of a new collection.

DATES: Emergency approval by the OMB has been requested by July 1, 2020 as it relates to the published interim final rule on the CARES Act Programs; Equitable Services to Students and Teachers in Non-Public Schools (85 FR 39479). Interested persons are invited to submit comments on or before September 8, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2020–SCC–0109. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Andrew Brake, 202–453–6136.

SUPPLEMENTARY INFORMATION: Since this collection was approved through emergency processing, the Department is providing the public with an opportunity to comment through the regular clearance process. This information collection will be transferred to the information collection requests, 1810–0741 and 1810–0743, to complete the comment period process. The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: CARES Act Programs; Equitable Services to Students and Teachers in Non-Public Schools.

OMB Control Number: 1810–NEW.

Type of Review: New information collection.

Respondents/Affected Public: State, Local or Tribal Governments.

Total Estimated Number of Annual Responses: 1,900.

Total Estimated Number of Annual Burden Hours: 76,393.

Abstract: The U.S. Department of Education (Department) is issuing an interim final rule to clarify the requirement in section 18005 of Division B of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) that local educational agencies (LEAs) provide equitable services to students and teachers in non-public schools under the Governor's Emergency Education Relief Fund (GEER Fund) and the Elementary and Secondary School Emergency Relief Fund (ESSER Fund) (collectively, the CARES Act programs). Section 18005(a) of the CARES Act requires an LEA that

receives funds under the GEER Fund or the ESSER Fund to provide equitable services in the same manner as provided under section 1117 of the Elementary and Secondary Education Act of 1965 (ESEA) to students and teachers in non-public schools, as determined in consultation with representatives of non-public schools. This is a request for an emergency paperwork clearance from OMB on the data collections associated with the interim final rule.

Additional Information: An emergency clearance approval for the use of the system is described below due to the following conditions:

Pursuant to the Office of Management and Budget (OMB) procedures established at 5 CFR part 1320, the U.S. Department of Education (Department) requests that the following collection of information, non-public school poverty count and enrollment data to be collected by local educational agencies (LEAs) that receive funds under the Governor's Emergency Education Relief Fund (GEER Fund) and the Elementary and Secondary School Emergency Relief Fund (ESSER Fund) (collectively, the CARES Act programs), be processed in accordance with § 1320.13 Emergency Processing. The Department is issuing an interim final rule, Equitable Services to Students and Teachers in Non-Public Schools, to clarify the requirement in section 18005 of Division B of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) that LEAs provide equitable services to students and teachers in non-public schools under the CARES Act programs. The Department has determined that LEAs must collect this information prior to the expiration of the time periods established under part 1320, and that approval of this information collection is essential for LEAs to effectively implement the interim final rule.

Therefore, the Department is requesting emergency approval to provide LEAs the means to carry out the CARES Act programs as intended.

Dated: July 6, 2020.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2020–14817 Filed 7–8–20; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Meetings

AGENCY: U.S. Election Assistance Commission.

ACTION: Sunshine Act Notice; correction.

SUMMARY: The U.S. Election Assistance Commission published a document in the **Federal Register** on July 2, 2020: Public Hearing: U.S. Election Assistance Commission Standards Board Annual Meeting.

Correction

In the **Federal Register** on July 2, 2020 in FR Doc. 2020–14428 on page 39894 in the first column, correct the Dates to read:

DATES: Friday, July 31, 2020 1:30 p.m.–4:30 p.m. Eastern.

FOR FURTHER INFORMATION CONTACT: Kristen Muthig, Telephone: (202) 897–9285, Email: *kmuthig@eac.gov.*

Amanda Joiner,

Associate Counsel, U.S. Election Assistance Commission.

[FR Doc. 2020–14889 Filed 7–7–20; 11:15 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–484]

Application To Export Electric Energy; CFE International LLC

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of application.

SUMMARY: CFE International LLC (Applicant or CFE International LLC) has applied for authorization to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before August 10, 2020.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to (202) 586–8008.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 42 U.S.C. 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On June 29, 2020, CFE International LLC filed an application with DOE (Application or App.) to transmit electric energy from the United States to Mexico for a term of five years. CFE International LLC states that it ''is a Delaware limited liability company with its principal place of business in Houston, Texas'' and that it ''is a wholly-owned, direct subsidiary of the Comisión Federal de Electricidad ('CFE'), which is itself wholly owned by the Mexican Federal Government.'' App. at 1. CFE International LLC adds that it ''does not directly or indirectly own, operate or control any electric generation facilities, electric transmission facilities, distribution facilities, or inputs to electric power production'' *Id.* at 3–4.

CFE International LLC further states that it ''will purchase the electric power to be exported in the markets in which it participates'' from third parties, including, ''electric utilities, federal power marketing agencies, qualifying cogeneration, small power production facilities and exempt wholesale generations . . . , independent system operators, regional transmission organization, and public utilities.'' App. at 4. CFE International LLC contends that ''any power [it purchases] for export would be surplus to the needs of those entities selling [the] power.'' *Id.* at 4–5. Further, ''the proposed exports will not impair or tend to impede the sufficiency of electric power supplies in the United States or the regional coordination of electric utility planning or operations.'' *Id.* at 5.

CFE International LLC also ''agrees to abide by the export limits contained in the relevant [proposed] export authorization of any [approved] transmission facilities,'' and states that ''[t]he controls that are inherent in any transaction that complies with all [reliability] requirements and the export limits imposed by the Department on the international transmission facilities are sufficient to ensure that exports by Applicant will not impede or tend to impede the coordinated use of transmission facilities'' under the Federal Power Act. App. at 5–6.

The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding

should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning CFE International LLC's application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–484. Additional copies are to be provided directly to Mónica Martínez, 825 Town & Country Ln., Suite #1450, Houston, TX 77024; *monica.martinez@cfeinternational.com;* Andrea Zulbarán, 825 Town & Country Ln., Suite #1450, Houston, TX 77024; *andrea.zulbaran@cfeinternational.com;* Kenneth W. Irvin, 1501 K Street NW, Washington, DC 20005; *kirwin@sidley.com;* Sarah A. Tucker, 1501 K Street NW, Washington, DC 20005; *stucker@sidley.com;* Terence T. Healey, 60 State Street, 34th Floor, Boston, MA 02109; *thealey@sidley.com.*

A final decision will be made on the Application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE determines that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of the Application will be made available, upon request, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Matthew Aronoff at *matthew.aronoff@hq.doe.gov.*

Signed in Washington, DC, on July 6, 2020.

Christopher Lawrence,

Management and Program Analyst, Transmission Permitting and Technical Assistance, Office of Electricity.

[FR Doc. 2020–14820 Filed 7–8–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Number: PR20–69–000.
Applicants: Black Hills Wyoming Gas, LLC.
Description: Tariff filing per 284.123(b),(e)+(g): Black Hills Wyoming Gas, LLC Statement of Rates Filing to be effective 6/1/2020.
Filed Date: 6/30/2020.
Accession Number: 202006305127.
Comments Due: 5 p.m. ET 7/21/2020.
284.123(g) Protests Due: 5 p.m. ET 8/31/2020.

Docket Numbers: RP10–837–000.
Applicants: Dominion Transmission, Inc.
Description: Report Filing: DETI—Operational Gas Sales Report—2020.
Filed Date: 6/30/20.
Accession Number: 20200630–5169.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP10–900–000.
Applicants: Dominion Transmission, Inc.
Description: Report Filing: DETI—Informational Fuel Report—2020.
Filed Date: 6/30/20.
Accession Number: 20200630–5170.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP18–1126–004.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: Report Filing: Rate Case Settlement Refund Report—Docket No. RP18–1126.
Filed Date: 7/1/20.
Accession Number: 20200701–5177.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP20–992–000.
Applicants: Gas Transmission Northwest LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Agreements (NGTL) to be effective 7/1/2020.
Filed Date: 7/1/20.
Accession Number: 20200701–5029.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP20–993–000.
Applicants: Natural Gas Pipeline Company of America.
Description: § 4(d) Rate Filing: Amendment to a Negotiated Rate Agreement- Macquarie Energy KT#145833 to be effective 7/1/2020.
Filed Date: 7/1/20.
Accession Number: 20200701–5043.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP20–994–000.
Applicants: Natural Gas Pipeline Company of America.
Description: § 4(d) Rate Filing: Amendment to a Negotiated Rate Agreement- Macquarie Energy KT#149966 to be effective 7/1/2020.
Filed Date: 7/1/20.
Accession Number: 20200701–5047.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP20–995–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: TCRA 2020 Out-of-Cycle to be effective 8/1/2020.
Filed Date: 7/1/20.
Accession Number: 20200701–5109.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP20–996–000.
Applicants: MIGC LLC.
Description: § 4(d) Rate Filing: Annual Fuel Filing to be effective 8/1/2020.
Filed Date: 7/1/20.
Accession Number: 20200701–5130.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP20–997–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: REX 2020–07–01 Negotiated Rate Agreements Amendments to be effective 6/26/2020.
Filed Date: 7/1/20.
Accession Number: 20200701–5140.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP20–998–000.
Applicants: Columbia Gulf Transmission, LLC.
Description: Compliance filing TRA 2020 Pro Forma.
Filed Date: 7/1/20.
Accession Number: 20200701–5213.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP20–999–000.
Applicants: West Texas Gas, Inc.
Description: § 4(d) Rate Filing: Tariff Filing to Update Spot Price Index to be effective 8/1/2020.
Filed Date: 7/1/20.
Accession Number: 20200701–5233.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP20–1000–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Constellation 52882 to Exelon 52921) to be effective 7/1/2020.
Filed Date: 7/1/20.
Accession Number: 20200701–5234.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP20–1001–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Marathon 51753, 51754 to Spire 52926, 52927) to be effective 7/1/2020.
Filed Date: 7/1/20.
Accession Number: 20200701–5235.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP20–1002–000.
Applicants: Enable Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Filing—July 1 2020 CERC to be effective 7/1/2020.
Filed Date: 7/1/20.
Accession Number: 20200701–5264.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP20–1003–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: CNX Negotiated Rate Agmt Amendment to be effective 7/1/2020.
Filed Date: 7/1/20.
Accession Number: 20200701–5265.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP20–1004–000.
Applicants: WTG Hugoton, LP.
Description: § 4(d) Rate Filing: Annual Fuel Retention Percentage Filing 2020–2021 to be effective 8/1/2020.
Filed Date: 7/1/20.
Accession Number: 20200701–5268.
Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: RP20–1005–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Capacity Release Agreements—7/1/2020 to be effective 7/1/2020.
Filed Date: 7/1/20.
Accession Number: 20200701–5270.
Comments Due: 5 p.m. ET 7/13/20.

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: July 2, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–14801 Filed 7–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–27–000]

North Baja Pipeline, LLC; Notice of Revised Schedule for Environmental Review of the North Baja Xpress Project

This notice identifies the Federal Energy Regulatory Commission staff's revised schedule for the completion of the environmental assessment (EA) for North Baja Pipeline, LLC's (North Baja) North Baja XPress Project. The first notice of schedule, issued on February 14, 2020, identified July 17, 2020 as the EA issuance date. However, the schedule has been extended in order to accommodate the U.S. Bureau of Land Management's (BLM) review of North Baja's Plan of Development for the project, which North Baja has not yet provided but states it will file with the BLM in early July. The BLM is a cooperating agency in the development of the EA. As a result, staff has revised the schedule for issuance of the EA.

Schedule for Environmental Review

Issuance of the EA—September 8, 2020

90-day Federal Authorization Decision Deadline—December 7, 2020

If a schedule change becomes necessary, an additional notice will be provided so that the relevant agencies are kept informed of the project's progress.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Comments may be filed electronically via the internet. *See* 18 CFR 385.2001(a)(1)(iii). Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the *https://elibrary.ferc.gov/IDMWS/search/fercgensearch.asp* eLibrary link, enter the Docket Number excluding the last three digits (*i.e.,* CP20–27), select a date range, and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: June 29, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–14420 Filed 7–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–2288–000]

Tatanka Ridge Wind, 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 Tatanka Ridge Wind, 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 22, 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: July 2, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–14804 Filed 7–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20–202–000.
Applicants: G.S.E. One LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of G.S.E. One LLC.
Filed Date: 7/2/20.
Accession Number: 20200702–5079.
Comments Due: 5 p.m. ET 7/23/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1484–020; ER13–1069–009; ER12–2381–006.
Applicants: Shell Energy North America (US), L.P., MP2 Energy LLC, MP2 Energy NE LLC.
Description: Updated Market Power Analysis for the Northeast Region of Shell Energy North America (US), L.P., *et al.*
Filed Date: 6/30/20.
Accession Number: 20200630–5534.
Comments Due: 5 p.m. ET 8/31/20.

Docket Numbers: ER10–1484–021; ER13–1069–010; ER12–2381–007.
Applicants: Shell Energy North America (US), L.P., MP2 Energy LLC, MP2 Energy NE LLC.
Description: Notice of Non-Material Change in Status of Shell Energy North America (US), L.P., *et al.*
Filed Date: 6/30/20.
Accession Number: 20200630–5540.
Comments Due: 5 p.m. ET 7/21/20.

Docket Numbers: ER10–1630–009; ER10–1586–009.
Applicants: Big Sandy Peaker Plant, LLC, Wolf Hills Energy, LLC.
Description: Notification of Change in Status of the Avenue MBR Sellers.
Filed Date: 7/1/20.
Accession Number: 20200701–5533.
Comments Due: 5 p.m. ET 7/22/20.

Docket Numbers: ER10–1819–026; ER10–1817–020; ER10–1818–021; ER10–1820–029.
Applicants: Northern States Power Company, a Minnesota corporation, Northern States Power Company a Wisconsin corporation, Public Service Company of Colorado, Southwestern Public Service Company.
Description: Notice of Change in Status of Northern States Power Company, a Minnesota corporation, *et al. et al.*
Filed Date: 7/1/20.
Accession Number: 20200701–5540.
Comments Due: 5 p.m. ET 7/22/20.

Docket Numbers: ER10–2895–021; ER14–1964–012; ER16–287–007; ER13–203–013; ER13–2143–014; ER10–3167–013: ER17–482–006; ER19–1074–005; ER11–3942–023; ER20–1447–002; ER10–2917–021; ER19–1075–005; ER19–529–005; ER19–2429–004; ER13–1613–014; ER10–2918–022; ER10–2920–021; ER11–3941–019; ER10–2921–021; ER10–2922–021; ER10–2966–021; ER11–2383–016; ER12–161–021; ER12–2068–017; ER10–2460–017; ER10–2461–018; ER12–682–018; ER10–2463–017; ER11–2201–021; ER13–17–015; ER12–1311–017; ER10–2466–018; ER11–4029–017.
Applicants: Bear Swamp Power Company LLC, BIF II Safe Harbor Holdings, LLC, BIF III Holtwood LLC, Black Bear SO, LLC, Black Bear Development Holdings, LLC, Black Bear Hydro Partners, LLC, BREG Aggregator LLC, Brookfield Energy Marketing Inc., Brookfield Energy Marketing LP, Brookfield Energy Marketing US LLC, Brookfield Power Piney & Deep Creek LLC, Brookfield Renewable Energy Marketing US, LLC, Brookfield Renewable Trading and Marketing, LP, Brookfield White Pine Hydro LLC, Carr Street Generating Station, L.P., Erie Boulevard Hydropower, L.P., Granite Reliable Power, LLC, Great Lakes Hydro America, LLC, Hawks Nest Hydro LLC, Rumford Falls Hydro LLC, Safe Harbor Water Power Corporation, Bishop Hill Energy, LLC, Blue Sky East, LLC, Canandaigua Power Partners, LLC, Canandaigua Power Partners II, LLC, Erie Wind, LLC, Evergreen Wind Power, LLC, Evergreen Wind Power III, LLC, Niagara Wind Power, LLC, Stetson Holdings, LLC, Stetson Wind II, LLC, Vermont Wind, LLC.
Description: Updated Market Power Analysis for the Northeast Region of the Brookfield Companies and Terra Form Companies.
Filed Date: 6/30/20.
Accession Number: 20200630–5525.
Comments Due: 5 p.m. ET 8/31/20.

Docket Numbers: ER10–2960–012; ER15–356–014; ER19–2231–004; ER15–357–014; ER19–2232–004; ER10–1595–015; ER18–2418–004; ER10–1598–015; ER10–1616–015; ER10–1618–015; ER18–1821–007.
Applicants: Astoria Generating Company, L.P., Chief Conemaugh Power, LLC, Chief Conemaugh Power II, LLC., Chief Keystone Power, LLC, Chief Keystone Power II, LLC., Crete Energy Venture, LLC., Great River Hydro, LLC, Lincoln Generating Facility, LLC, New Covert Generating Company, LLC, Walleye Power, LLC, Rolling Hills Generating, L.L.C.
Description: Updated Market Power Analysis for the Northeast Region of Astoria Generating Company, L.P.
Filed Date: 6/30/20.
Accession Number: 20200630–5498.
Comments Due: 5 p.m. ET 8/31/20.

Docket Numbers: ER12–1561–004; ER13–773–002; ER10–2481–005; ER13–33–006.
Applicants: Rensselaer Generating LLC, Roseton Generating LLC, Ingenco Wholesale Power, L.L.C., Collegiate Clean Energy, LLC.
Description: Triennial Filing for the Northeast Region of Rensselaer Generating LLC, *et al.*
Filed Date: 6/30/20.
Accession Number: 20200630–5520.
Comments Due: 5 p.m. ET 8/31/20.

Docket Numbers: ER13–55–025.
Applicants: Homer City Generation, L.P.
Description: Market Power Update of Homer City Generation, L.P.
Filed Date: 6/30/20.
Accession Number: 20200630–5542.
Comments Due: 5 p.m. ET 8/31/20.

Docket Numbers: ER13–823–007; ER18–239–001; ER18–236–001; ER18–234–001; ER18–238–001; ER18–237–001; ER13–2106–009.
Applicants: Castleton Commodities Merchant Trading, LP, GSP Lost Nation LLC, GSP Merrimack LLC, GSP Newington LLC, GSP Schiller LLC, GSP White Lake LLC, NedPower Mount Storm LLC.
Description: Triennial Filing of Castleton Commodities Merchant Trading, L.P., *et al.*
Filed Date: 6/30/20.
Accession Number: 20200630–5518.
Comments Due: 5 p.m. ET 8/31/20.

Docket Numbers: ER17–194–005.
Applicants: Hartree Partners, LP.
Description: Updated Market Power Analysis for the Northeast Region of Hartree Partners, LP.
Filed Date: 6/30/20.

Accession Number: 20200630–5503.
Comments Due: 5 p.m. ET 8/31/20.

Docket Numbers: ER17–256–012; ER17–242–011; ER17–243–011; ER17–652–011; ER17–245–011.

Applicants: Darby Power, LLC, Gavin Power, LLC, Lawrenceburg Power, LLC, Waterford Power, LLC, Lightstone Marketing LLC.

Description: Updated Market Power Analysis of the Lightstone Northeast MBR Sellers.

Filed Date: 6/30/20.
Accession Number: 20200630–5527.
Comments Due: 5 p.m. ET 8/31/20.

Docket Numbers: ER18–1863–006; ER18–1534–006; ER13–752–013; ER10–1857–014; ER10–1899–014; ER10–1932–014; ER10–1935–014; ER10–1852–040; ER15–2601–006; ER14–1630–010; ER15–1835–001; ER11–4462–043; ER17–1774–004; ER17–838–018; ER10–1973–013; ER10–1951–022; ER10–1974–024; ER20–2012–001.

Applicants: Coolidge Solar I, LLC, East Hampton Energy Storage Center, LLC, Energy Storage Holdings, LLC, FPL Energy Cape, LLC, FPL Energy Illinois Wind, LLC, FPL Energy Wyman, LLC, FPL Energy Wyman IV, LLC, Florida Power & Light Company, Green Mountain Storage, LLC, Manuta Creek Solar, LLC, Montauk Energy Storage Center, LLC, NEPM II, LLC, NextEra Energy Bluff Point, LLC, NextEra Energy Marketing, LLC, NextEra Energy Seabrook, LLC, NextEra Energy Services Massachusetts, LLC, Northeast Energy Associates, A Limited Partnership, Orbit Bloom Energy, LLC.

Description: Northeast Region Triennial Market Power Update of the NextEra Companies.

Filed Date: 6/30/20.
Accession Number: 20200630–5535.
Comments Due: 5 p.m. ET 8/31/20.

Docket Numbers: ER19–158–005; ER10–2669–012; ER10–2670–012; ER10–2674–014; ER10–2585–008; ER19–2803–002; ER19–2806–002; ER15–1596–010; ER15–1598–007; ER15–1599–010; ER14–1569–010; ER15–1600–006; ER15–1602–006; ER10–2619–011; ER10–2616–017; ER15–1605–006; ER11–4400–014; ER15–1607–006; ER15–1608–006; ER19–2807–002; ER10–2421–003; ER12–1769–006; ER12–2250–004; ER10–1547–013; ER14–883–011; ER13–2475–012; ER17–1906–003; ER12–192–015; ER19–102–003; ER11–2457–003; ER11–3867–015; ER11–3857–015; ER10–1975–026; ER10–2617–010; ER10–2677–014; ER12–2253–004; ER12–2251–004; ER12–75–007; ER12–2252–005; ER11–4266–016; ER10–2613–008; ER14–2245–004; ER19–2811–002; ER19–2809–002; ER19–2810–002.

Applicants: Ambit Northeast, LLC, ANP Bellingham Energy Company, LLC, ANP Blackstone Energy Company, LLC, Calumet Energy Team, LLC, Casco Bay Energy Company, LLC, Cincinnati Bell Energy LLC, Connecticut Gas & Electric, Inc., Dynegy Commercial Asset Management., Dynegy Dicks Creek, LLC, Dynegy Energy Services (East), LLC, Dynegy Energy Services, LLC, Dynegy Fayette II, LLC, Dynegy Hanging Rock II, LLC, Dynegy Kendall Energy, LLC, Dynegy Marketing and Trade, LLC, Dynegy Miami Fort, LLC, Dynegy Power Marketing, LLC, Dynegy Washington II, LLC, Dynegy Zimmer, LLC, Energy Rewards, LLC, Energy Services Providers, Inc., Everyday Energy, LLC, Everyday Energy NJ, LLC, Hopewell Cogeneration Limited Partnership, Illinois Power Marketing Company, Kincaid Generation, L.L.C., Lake Road Generating Company, LLC, Liberty Electric Power, LLC, Luminant Energy Company LLC, Massachusetts Gas & Electric, Inc., MASSPOWER, Milford Power Company, LLC, North Jersey Energy Associates, A Limited Partnership, Ontelaunee Power Operating Company, LLC, Pleasants Energy, LLC, Public Power & Utility of Maryland, LLC, Public Power & Utility of NY, Inc, Public Power, LLC, Public Power (PA), LLC, Richland-Stryker Generation LLC, Sithe/Independence Power Partners, L.P., TriEagle Energy, LP, Viridian Energy, LLC, Viridian Energy NY, LLC, Viridian Energy PA, LLC.

Description: Triennial Market Power Update for the Northeast Region of the Vistra MBR Sellers.

Filed Date: 6/30/20.
Accession Number: 20200630–5530.
Comments Due: 5 p.m. ET 8/31/20.

Docket Numbers: ER19–675–003.

Applicants: Public Service Company of Colorado.

Description: Compliance filing: OATT-Att O-SPS DistribRates-Compl-GSEC_ER19–675 to be effective 8/1/2019.

Filed Date: 7/1/20.
Accession Number: 20200701–5356.
Comments Due: 5 p.m. ET 7/22/20.

Docket Numbers: ER19–1074–004; ER11–3942–022; ER19–1075–004; ER19–529–004; ER19–2429–003.

Applicants: Brookfield Energy Marketing Inc., Brookfield Energy Marketing LP, Brookfield Renewable Energy Marketing US, LLC, Brookfield Renewable Trading and Marketing, LP, Brookfield Smoky Mountain Hydropower LP.

Description: Updated Market Power Analysis for the Southeast Region of Brookfield Energy Marketing Inc., *et. al.*

Filed Date: 6/30/20.
Accession Number: 20200630–5516.
Comments Due: 5 p.m. ET 8/31/20.

Docket Numbers: ER19–2621–001; ER19–666–001; ER19–667–002; ER19–669–002.

Applicants: FirstLight Power Management LLC, FirstLight CT Housatonic LLC, FirstLight MA Hydro LLC, Northfield Mountain LLC.

Description: Updated Market Power Analysis for the Northeast Region of FirstLight Power Management LLC, *et al. et al.*

Filed Date: 6/30/20.
Accession Number: 20200630–5504.
Comments Due: 5 p.m. ET 8/31/20.

Docket Numbers: ER20–1668–002.

Applicants: Dominion Energy South Carolina, Inc.

Description: Tariff Amendment: LGIP Modifications Amendment to be effective 8/31/2020.

Filed Date: 7/1/20.
Accession Number: 20200701–5366.
Comments Due: 5 p.m. ET 7/22/20.

Docket Numbers: ER20–1779–001.

Applicants: Midcontinent Independent System Operator, Inc., ALLETE, Inc.

Description: Tariff Amendment: 2020–06–30_SA 3326 MP–BPU Substitute 1st Rev T–T (Brainerd) to be effective 12/31/9998.

Filed Date: 6/30/20.
Accession Number: 20200630–5146.
Comments Due: 5 p.m. ET 7/21/20.

Docket Numbers: ER20–2289–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3704 Union Electric, Evergy Missouri West & MISO Int Agr to be effective 8/30/2020.

Filed Date: 7/1/20.
Accession Number: 20200701–5279.
Comments Due: 5 p.m. ET 7/22/20.

Docket Numbers: ER20–2290–000.

Applicants: American Electric Power Service Corporation, AEP Indiana Michigan Transmission Company, Indiana Michigan Power Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: AEP submits ILDSAs, SA Nos. 1446, 1447, 1448, 1450, 1451, 1455, and 5120 to be effective 6/1/2020.

Filed Date: 7/1/20.
Accession Number: 20200701–5284.
Comments Due: 5 p.m. ET 7/22/20.

Docket Numbers: ER20–2291–000.

Applicants: Evergy Missouri West, Inc.

Description: § 205(d) Rate Filing: Notice of Succession and Notice of Termination to be effective 8/16/2020.

Filed Date: 7/1/20.
Accession Number: 20200701–5294.

Comments Due: 5 p.m. ET 7/22/20.

Docket Numbers: ER20–2292–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Filing of Member Project Contracts, BP 101, and BP 115 (1) to be effective 7/2/2020.

Filed Date: 7/1/20.

Accession Number: 20200701–5307.

Comments Due: 5 p.m. ET 7/22/20.

Docket Numbers: ER20–2293–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Filing of Member Project Contracts, BP 101, and BP 115 (2) to be effective 7/2/2020.

Filed Date: 7/1/20.

Accession Number: 20200701–5318.

Comments Due: 5 p.m. ET 7/22/20.

Docket Numbers: ER20–2294–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Filing of Member Project Contracts, BP 101, and BP 115 (3) to be effective 7/2/2020.

Filed Date: 7/1/20.

Accession Number: 20200701–5324.

Comments Due: 5 p.m. ET 7/22/20.

Docket Numbers: ER20–2295–000.

Applicants: Nevada Power Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 117 NPC/SPPC/Great Basin 2nd Amendment to be effective 8/31/2020.

Filed Date: 7/1/20.

Accession Number: 20200701–5350.

Comments Due: 5 p.m. ET 7/22/20.

Docket Numbers: ER20–2296–000.

Applicants: Golden State Water Company.

Description: Tariff Cancellation: Notice of Cancellation of Market-Based Rate Tariff to be effective 7/2/2020.

Filed Date: 7/1/20.

Accession Number: 20200701–5358.

Comments Due: 5 p.m. ET 7/22/20.

Docket Numbers: ER20–2297–000.

Applicants: Evergy Kansas South, Inc.

Description: § 205(d) Rate Filing: Notice of Termination to be effective 8/29/2020.

Filed Date: 7/1/20.

Accession Number: 20200701–5376.

Comments Due: 5 p.m. ET 7/22/20.

Docket Numbers: ER20–2298–000.

Applicants: NorthWestern Corporation.

Description: § 205(d) Rate Filing: Revised Rate Schedule 188—Puget Annual True-Up to be effective 9/1/2020.

Filed Date: 7/2/20.

Accession Number: 20200702–5006.

Comments Due: 5 p.m. ET 7/23/20.

Docket Numbers: ER20–2299–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2020–07–02_SA 3175 Deltas Edge—EMI 1st Rev GIA (J679) to be effective 6/19/2020.

Filed Date: 7/2/20.

Accession Number: 20200702–5043.

Comments Due: 5 p.m. ET 7/23/20.

Docket Numbers: ER20–2300–000.

Applicants: East Fork Wind Project, LLC.

Description: § 205(d) Rate Filing: Notice of Change in Category Status of ENGIE MBR Sellers to be effective 9/1/2020.

Filed Date: 7/2/20.

Accession Number: 20200702–5071.

Comments Due: 5 p.m. ET 7/23/20.

Docket Numbers: ER20–2301–000.

Applicants: ENGIE Energy Marketing NA, Inc.

Description: § 205(d) Rate Filing: Notice of Change in Category Status of ENGIE MBR Sellers to be effective 9/1/2020.

Filed Date: 7/2/20.

Accession Number: 20200702–5073.

Comments Due: 5 p.m. ET 7/23/20.

Docket Numbers: ER20–2302–000.

Applicants: ENGIE Portfolio Management, LLC.

Description: § 205(d) Rate Filing: Notice of Change in Category Status of ENGIE MBR Sellers to be effective 9/1/2020.

Filed Date: 7/2/20.

Accession Number: 20200702–5080.

Comments Due: 5 p.m. ET 7/23/20.

Docket Numbers: ER20–2303–000.

Applicants: ENGIE Resources LLC.

Description: § 205(d) Rate Filing: Notice of Change in Category Status of ENGIE MBR Sellers to be effective 9/1/2020.

Filed Date: 7/2/20.

Accession Number: 20200702–5082.

Comments Due: 5 p.m. ET 7/23/20.

Docket Numbers: ER20–2304–000.

Applicants: ENGIE Retail, LLC.

Description: § 205(d) Rate Filing: Notice of Change in Category Status of ENGIE MBR Sellers to be effective 9/1/2020.

Filed Date: 7/2/20.

Accession Number: 20200702–5084.

Comments Due: 5 p.m. ET 7/23/20.

Docket Numbers: ER20–2305–000.

Applicants: Plymouth Rock Energy, LLC.

Description: § 205(d) Rate Filing: Notice of Change in Category Status of ENGIE MBR Sellers to be effective 9/1/2020.

Filed Date: 7/2/20.

Accession Number: 20200702–5085.

Comments Due: 5 p.m. ET 7/23/20.

Docket Numbers: ER20–2306–000.

Applicants: Solomon Forks Wind Project, LLC.

Description: § 205(d) Rate Filing: Notice of Change in Category Status of ENGIE MBR Sellers to be effective 9/1/2020.

Filed Date: 7/2/20.

Accession Number: 20200702–5087.

Comments Due: 5 p.m. ET 7/23/20.

Docket Numbers: ER20–2307–000.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.

Description: § 205(d) Rate Filing: 2020–07–02_SA 3410 Termination of AIC–SIPC Exclusive As-Available Service Agrmt to be effective 7/3/2020.

Filed Date: 7/2/20.

Accession Number: 20200702–5088.

Comments Due: 5 p.m. ET 7/23/20.

Docket Numbers: ER20–2308–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: End of Life Joint Stakeholder Proposal Filing to be effective 1/1/2021.

Filed Date: 7/2/20.

Accession Number: 20200702–5115.

Comments Due: 5 p.m. ET 7/23/20.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES20–41–000.

Applicants: Southern Indiana Gas and Electric Company, Inc.

Description: Amendment [Exhibits C, D & E] to June 2, 2020 Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Southern Indiana Gas and Electric Company, Inc.

Filed Date: 6/30/20.

Accession Number: 20200630–5514.

Comments Due: 5 p.m. ET 7/6/20.

Docket Numbers: ES20–41–000.

Applicants: Southern Indiana Gas and Electric Company, Inc.

Description: Amendment [Paragraph I(e)(3), [Pages 6–7] to June 2, 2020 Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Southern Indiana Gas and Electric Company, Inc.

Filed Date: 6/30/20.

Accession Number: 20200630–5515.

Comments Due: 5 p.m. ET 7/6/20.

Docket Numbers: ES20–47–000.

Applicants: El Paso Electric Company.

Description: Application for Renewal of Section 204 Authorization of El Paso Electric Company.

Filed Date: 6/30/20.

Accession Number: 20200630–5524.

Comments Due: 5 p.m. ET 7/6/20.

The filings are accessible in the Commission's eLibrary system by

clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 2, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–14805 Filed 7–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL20–54–000]

ISO New England Inc.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On July 1, 2020, the Commission issued an order in Docket No. EL20–54–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2018), instituting an investigation into whether ISO–NE's new entrant pricing rules may be unjust and unreasonable. *ISO New England Inc.,* 172 FERC ¶ 61,005 (2020).

The refund effective date in Docket No. EL20–54–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL20–54–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2019), within 21 days of the date of issuance of the order.

Dated: July 2, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–14812 Filed 7–8–20; 8:45 am]

BILLING CODE 6717–01–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting of the Farm Credit Administration Board

AGENCY: Farm Credit Administration.

ACTION: Notice, regular meeting.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the forthcoming regular meeting of the Farm Credit Administration Board.

DATES: The regular meeting of the Board will be held July 16, 2020, from 9:00 a.m. until such time as the Board may conclude its business.

ADDRESSES: *Note: Because of the COVID–19 pandemic, we will conduct the board meeting virtually. If you would like to observe the open portion of the virtual meeting, see instructions below for board meeting visitors.*

Attendance: To observe the open portion of the virtual meeting, go to *FCA.gov*, select ''Newsroom,'' then ''Events.'' There you will find a description of the meeting and a link to ''Instructions for board meeting visitors.'' See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

FOR FURTHER INFORMATION CONTACT: Dale Aultman, Secretary to the Farm Credit Administration Board (703) 883–4009. TTY is (703) 883–4056.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public, and parts will be closed. If you wish to observe the open portion, follow the instructions above in **ADDRESSES**, at least 24 hours before the meeting. If you need assistance for accessibility reasons or if you have any questions, contact Dale Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are as follows:

Open Session

A. Approval of Minutes

- June 11, 2020

B. Reports

- Status of Regulatory Pause and Next Steps

Closed Session

- Office of Secondary Market Oversight Update [1]

[1] Session closed is exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

Dated: July 6, 2020.

Dale Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2020–14819 Filed 7–7–20; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sending Case Issuances Through Electronic Mail

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice.

SUMMARY: On a temporary basis, the Federal Mine Safety and Health Review Commission will be sending its issuances through electronic mail and will not be monitoring incoming physical mail or facsimile transmissions.

DATES: *Applicable:* July 1, 2020.

FOR FURTHER INFORMATION CONTACT: Sarah Stewart, Deputy General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, at (202) 434–9935; *sstewart@fmshrc.gov.*

SUPPLEMENTARY INFORMATION: Until August 28, 2020, case issuances of the Federal Mine Safety and Health Review Commission (FMSHRC), including inter alia notices, decisions, and orders, will be sent only through electronic mail. This includes notices, decisions, and orders described in 29 CFR 2700.4(b)(1), 2700.24(f)(1), 2700.45(e)(3), 2700.54, and 2700.66(a). Further, FMSHRC will not be monitoring incoming physical mail or facsimile described in 29 CFR 2700.5(c)(2). If possible, all filings should be e-filed as described in 29 CFR 2700.5(c)(1).

Authority: 30 U.S.C. 823.

Dated: July 1, 2020.

Sarah L. Stewart,

Deputy General Counsel, Federal Mine Safety and Health Review Commission.

[FR Doc. 2020–14604 Filed 7–8–20; 8:45 am]

BILLING CODE 6735–01–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 10, 2020.

A. Federal Reserve Bank of Minneapolis (Chris P. Wangen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Park Financial Group, Inc., Minneapolis, Minnesota;* to acquire additional voting shares of Mesaba Bancshares, Inc., Grand Rapids, Minnesota, and thereby indirectly acquire American Bank of the North, Nashwauk, Minnesota, and The Lake Bank, Two Harbors, Minnesota.

Board of Governors of the Federal Reserve System, July 6, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–14826 Filed 7–8–20; 8:45 am]

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FEDERAL TRADE COMMISSION

[File No. 182 3189]

RagingWire Data Centers, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement; Request for Comment.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 10, 2020.

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''RagingWire Data Centers, Inc.; File No. 182 3189'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Linda Holleran Kopp (202–326–2267), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC website (for June 30, 2020), at this web address: *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before August 10, 2020. Write ''RagingWire Data Centers, Inc.; File No. 182 3189'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Due to the public health emergency in response to the COVID–19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''RagingWire Data Centers, Inc.; File No. 182 3189'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and

the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing the proposed settlement. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before August 10, 2020. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order from NTT Global Data Centers Americas, Inc., formerly known as RagingWire Data Centers, Inc. (''NTT Global''). The proposed consent order seeks to resolve allegations against NTT Global in the administrative complaint issued by the Commission on November 7, 2019.

The proposed consent order (''proposed order'') has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns alleged false or misleading representations by NTT Global concerning its participation in, and compliance with, the EU–U.S. Privacy Shield Framework agreed upon by the U.S. and the European Union (''EU''). The Privacy Shield Framework allows U.S. companies to receive personal data transferred from the EU without violating EU law. The Framework consists of a set of principles and related requirements that have been deemed by the European Commission as providing ''adequate'' privacy protection. The principles include notice; choice; accountability for onward transfer; security; data integrity and purpose limitation; access; and recourse, enforcement, and liability. The related requirements include, for example, securing an independent recourse mechanism to handle any disputes about how the company manages information about EU citizens.

To participate in the Privacy Shield Framework, a company must comply with the Privacy Shield principles and self-certify its compliance to the U.S. Department of Commerce (''Commerce''). Commerce reviews companies' self-certification applications and maintains a public website, *https://www.privacyshield.gov/list,* where it posts the names of companies that have completed the requirements for certification. Companies are required to recertify every year in order to continue benefitting from Privacy Shield.

NTT Global provides secure data centers for housing its clients' servers (called colocation services) and related services. In a four-count complaint, the Commission alleged that NTT Global violated Section 5(a) of the Federal Trade Commission Act by falsely representing in its privacy policy, published on its website at *https://www.ragingwire.com,* and in various marketing materials that it was a self-certified participant in, and that it complied with, the Privacy Shield Framework when it did not. Specifically, the complaint alleged that NTT Global continued to represent that it was a Privacy Shield participant after allowing its certification to lapse. The complaint also alleged that NTT Global failed to comply with three substantive Privacy Shield requirements by not: (a) Providing an independent recourse mechanism for the entire time it was a Privacy Shield participant; (b) annually verifying that its assertions regarding its Privacy Shield practices were implemented and in accord with the Privacy Shield principles; and (c) affirming or verifying, after it was withdrawn from the Framework, that it would delete or return information collected or that it would continue its ongoing commitment to protect any retained data it had received pursuant to Privacy Shield.

Part I of the proposed order prohibits NTT Global from making misrepresentations about its membership in any privacy or security program sponsored by the government or any other self-regulatory or standard-setting organization, including, but not limited to, the EU–U.S. Privacy Shield Framework, the Swiss-U.S. Privacy Shield Framework, and the Asia-Pacific Economic Cooperation (''APEC'') Privacy Framework.

Part II of the proposed order requires that, for so long as NTT Global participates in Privacy Shield, it must obtain an annual compliance review from a third party assessor that demonstrates that NTT Global's assertions related to its Privacy Shield practices were implemented and are in accord with the Privacy Shield principles. The third-party assessor must be approved by the Associate Director of the Division of Enforcement of the FTC's Bureau of Consumer Protection, and must sign a statement verifying the successful completion of each annual compliance review.

Part III of the proposed order requires that, in the case of any future lapse in NTT Global's Privacy Shield certification, the company affirm to Commerce that it will continue to apply the Privacy Shield Framework principles to any data it received pursuant to the Framework, protect the data by another means authorized under EU or Swiss law, or delete or return such data.

Parts IV through VII of the proposed order are reporting and compliance provisions. Part IV requires acknowledgement of the order and dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part V ensures notification to the FTC of changes in corporate status and mandates that the company submit an initial compliance report to the FTC. Part VI requires the company to create and retain certain documents relating to its compliance with the order. Part VII mandates that the company make available to the FTC information or subsequent compliance reports, as requested.

The order will generally last for twenty (20) years.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission, Commissioner Chopra dissenting, Commissioner Slaughter not participating.

April J. Tabor,

Secretary.

Majority Statement of Chairman Joseph J. Simons and Commissioners Noah Joshua Phillips and Christine S. Wilson in the Matter of NTT Global Data Centers Americas, Inc.

The Federal Trade Commission remains committed to enforcing the EU–U.S. Privacy Shield and Swiss-U.S. Privacy Shield programs, and the order

we approve today is consistent with that commitment. This order is, in fact, more protective of the Privacy Shield Principles than the 14 orders this Commission (including Commissioner Chopra) has approved in prior Privacy Shield cases. Specifically, it requires Respondent to obtain third-party assessments for as long as it participates in Privacy Shield.

Notably, this heightened obligation exceeds the scope of the notice order that the Commission (including Commissioner Chopra) unanimously approved in November 2019 in this case. Commissioner Chopra asserts that new facts have emerged in litigation that would support even more relief. But what staff did here is obtain additional evidence, through discovery, that supports the complaint's allegations. The Commission had reason to believe that Respondent's Privacy Shield representations were included in a variety of publications and were material when we voted to litigate. During litigation, staff uncovered further evidence confirming materiality. This should not have come as a surprise to Commissioner Chopra. For example, the complaint specifically alleges that Respondent claimed, both in its privacy policy and in marketing materials, that it participated in Privacy Shield, and staff found evidence that Respondent was, in fact, touting its participation in Privacy Shield as a selling point.

Commissioner Chopra would ask us to reject a settlement that protects consumers and furthers our Privacy Shield goals, to instead continue litigation during an ongoing pandemic. There is no need and doing so would unnecessarily divert resources from other important matters, including investigations of other substantive violations of Privacy Shield. We do not support moving the goalposts in this manner [1] and for this reason vote to accept the settlement, which not just accords with but exceeds the relief the Commission unanimously sought to obtain at the outset of the case.

[1] Commissioner Chopra attempts to distinguish his earlier approval of settlements by arguing that additional relief is warranted in cases involving large businesses that violate substantive provisions of Privacy Shield. Notably, however, several recent settlements approved unanimously by this Commission that similarly alleged substantive violations of Privacy Shield involved companies that also generated substantial revenue, nor have the allegations or the defendant changed since the Commission initially approved the notice order.

Dissenting Statement of Commissioner Rohit Chopra Regarding the EU–U.S. Privacy Shield Framework in the Matter of NTT Global Data Centers Americas, Inc.

Summary

- American businesses that participate in the EU–U.S. Privacy Shield Framework should not have to compete with those that break their privacy promises.
- The FTC charged a data center company with violating their Privacy Shield commitments, but our proposed settlement does not even attempt to adequately remedy the harm to the market.
- The evidence in the record raises serious concerns that customers looking to follow the law relied on the company's representations and may be locked into long-term contracts.
- A quick settlement with a small firm for an inadvertent mistake may be appropriate, but it is inadequate for a dishonest, large firm violating a core pillar of Privacy Shield.
- We must consider seeking additional remedies, including rights to renegotiate contracts, disgorgement of ill-gotten revenue and data, and notice and redress for customers.

EU–U.S. Privacy Shield Framework

European companies seeking to comply with data protection rules need to ensure that their service providers are on the right side of the law. To adhere to legal requirements when transferring personal data from Europe to the United States, these companies prefer to work with partners that participate in the EU–U.S. Privacy Shield Framework, the cross-border data-sharing protocol between the European Union and the United States. One of the ways that American companies can distinguish themselves to prospective clients in the European Union is to participate (or work with a participant) in the Privacy Shield program, administered by the U.S. Department of Commerce. By participating, American companies must comply with a list of requirements on data protection, and they agree to be held accountable for these commitments. For example, companies must articulate how individuals can access the personal data held by the participating company, explain the ways in which individuals can limit the use and disclosure of their personal data, and provide individuals access, at no charge, to an independent recourse mechanism to resolve disputes. Importantly, the Federal Trade Commission can take enforcement actions against companies that violate their Privacy Shield promises.

Strengthening the FTC Cross-Border Data Transfer Enforcement Program

Typically, the FTC uses this enforcement authority by entering into no-money, no-fault settlements where a company simply agrees it will stop breaking the law. I believe it is critical that we approach our enforcement program with a mindset of seeking continuous improvement, given the integral role we play to root out deception in this arena.

Deception does not simply harm consumers; it also harms honest businesses and it distorts fair competition. This is not a new concept—it is longstanding policy. I continue to believe that our Privacy Shield enforcement program can do more to protect and redress individuals in the European Union, while also ensuring honest American firms participating in the Privacy Shield program do not have to compete with companies that break their privacy promises.[1]

The FTC Act permits the Commission to issue orders to companies after serving notice of its charges and offering the individual or company an opportunity to respond. Under our procedures, after the Commission charges a respondent with wrongdoing, the parties can exchange evidence in the discovery process and an Administrative Law Judge ultimately presides over a trial. At the conclusion of these procedures, whether through appeal or directly, the Commission can issue an order to the Respondent if the Commission concludes that there was a law violation.

But the process does not end there. After entering an order, the Commission can obtain additional remedies from a federal court if we have reason to believe that the misconduct was ''dishonest'' or ''fraudulent.'' [2] These

[1] In 1983, even as the Federal Trade Commission formally adopted a more lenient posture toward deception, the FTC Policy Statement on Deception noted that the prohibition on deceptive practices is ''intended to prevent injury to competitors as well as to consumers. . . . Deceptive practices injure both competitors and consumers because consumers who preferred the competitor's product are wrongly diverted.'' *FTC Statement on Deception,* 103 F.T.C. 174 (1983) (appended to *Cliffdale Assocs., Inc.,* 103 F.T.C. 110, 174 (1984)), available at *https://www.ftc.gov/system/files/documents/public_statements/410531/831014deceptionstmt.pdf.*

[2] Under 15 U.S.C. 57b, ''[i]f the Commission satisfies the court that the act or practice to which the cease and desist order relates is one which a reasonable man would have known under the circumstances was dishonest or fraudulent,'' it can seek ''rescission or reformation of contracts, the

remedies include monetary restitution and rescission of contracts. In an administrative settlement, the Commission can obtain the full range of these remedies, since it is forgoing further litigation in federal court.

FTC's Administrative Complaint and Proposed Settlement With NTT

I have long been concerned with the FTC's Privacy Shield enforcement strategy, which overwhelmingly targets small businesses, some of whom may have made inadvertent mistakes. But these mistakes were still violations of law, and most of these orders did not involve violations of substantive protections of the Privacy Shield framework, so I have supported quick settlements with these small businesses given our limited resources. However, the FTC encountered a very different situation with a major data center company.

In November 2019, the Commission charged NTT Global Data Centers Americas (NTT), a major data center company controlled by Nippon Telephone & Telegraph formerly known as RagingWire, with failing to live up to its promises under the EU–U.S. Privacy Shield Framework. The Commission alleged that the company misrepresented its Privacy Shield participation and failed to meet certain obligations when it was a participant, including one of the core pillars: providing users with the ability to file complaints and disputes about their personal data. An administrative proceeding commenced, and NTT denied most of the Commission's allegations.[3]

The Commission now proposes to end the administrative litigation through a no-money, no-fault settlement that does not include any of the additional remedies available under the FTC Act for ''dishonest'' conduct. I believe the proposed settlement should be renegotiated, given that the additional evidence gathered suggests that the company's conduct was dishonest.

It is clear that the company's misrepresentations about Privacy Shield were not limited to a reference in its privacy policy. Most importantly, there was clear evidence of reliance on NTT's representations regarding its privacy protocols as a prerequisite for purchasing. Take the example of a customer of NTT, DreamHost, which offers web hosting services. DreamHost clearly values privacy. It carefully vets its partners to ensure compliance with the EU's General Data Protection Regulation. DreamHost specifically checks to see whether a prospective partner is a Privacy Shield participant. If not, DreamHost must take other steps to ensure that it meets its data protection obligations. The evidence in the record suggests that DreamHost is locked into a five-year contract that will not expire until 2022.[4] Making matters worse, [non-public information redacted]. In other words, NTT's deception and dishonesty appears to have generated sales from customers who were seeking to protect customer privacy. This distorted the market, as NTT's competitors likely lost sales due to the alleged deception.

The proposed settlement does nothing for companies that put a premium on privacy, like DreamHost. A more appropriate settlement would include redress for customers, forfeiture of the company's gains from any deceptive sales practices, or a specific admission of liability that would allow its customers to pursue claims in private litigation. Perhaps most importantly, NTT customers that entered into long-term contracts should be free to renegotiate or terminate these agreements if they were finalized during the period when NTT was engaged in the alleged deceptive conduct. Companies like DreamHost should not be locked into long-term contracts with NTT, given the evidence of dishonest conduct. Contract remedies would allow customers to switch to NTT's law-abiding Privacy Shield-compliant competitors, who may have lost business due to the deception. Even if the Commission sought one or more of these remedies and NTT subsequently declined to agree, it would have been more prudent to resume the administrative litigation,[5] at an appropriate time.[6]

For these reasons, I respectfully dissent.

[FR Doc. 2020–14782 Filed 7–8–20; 8:45 am]

BILLING CODE 6750–01–P

refund of money or return of property, the payment of damages, and public notification[.]''

[3] Answer and Affirmative Defenses of Respondent RagingWire Data Centers, LLC, NTT Global Data Centers Americas, Inc., Docket No. 9386 (Nov. 25, 2019), *https://www.ftc.gov/system/files/documents/cases/d09386_nov_25-r_answer_and_affirmative_defensepublic596761.pdf.* In its answer, the company denied that it disseminated sales materials touting its participation in Privacy Shield. Answer ¶¶ 20–21.

[4] See Declaration of Christopher Ghazarian, NTT Global Data Centers Americas, Inc., Docket No. 9386 (Dec. 20, 2019).

[5] As noted earlier, if the Commission entered a final cease-and-desist order at the conclusion of litigation, I believe this could trigger civil penalties, pursuant to Section 5(m)(1)(B) of the FTC Act, for other companies with knowledge of the order that do not fulfill their obligations under the EU–U.S. Privacy Shield Framework or other privacy or security programs sponsored by the government or a standard-setting organization. In addition, there is a paucity of litigated FTC cases in the data protection arena, which hampers development of the law.

[6] While I have great faith that our staff would be able to successfully renegotiate the existing no-money, no-fault settlement, I would be willing to continue the administrative proceeding at some time in the future. The Commission has voted to issue a number of orders to pause administrative proceedings, given the safety and logistical concerns associated with the current pandemic.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Generic for ACF Program Monitoring Activities (New Collection)

AGENCY: Office of Planning, Research, and Evaluation, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) intends to request approval from the Office of Management and Budget (OMB) for a new generic clearance for information collections related to ACF program office monitoring activities. ACF programs promote the economic and social well-being of families, children, individuals, and communities. The proposed Generic for ACF Program Monitoring Activities would allow ACF program offices to collect standardized information from recipients that receive federal funds to ensure oversight, evaluation, support purposes, and stewardship of federal funds.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *OPREinfocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests, emailed or written should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: Program monitoring is a post-award process through which ACF assesses a recipient's programmatic

performance and business management performance. Monitoring activities are necessary to ensure timely action by ACF to support grantees and protect federal interests.

Program offices would use information collected under this generic clearance to monitor funding recipient activities and to provide support or take appropriate action, as needed. The information gathered will be used primarily for internal purposes, but aggregate data may be included in public materials such as Reports to Congress or program office documents. Following standard OMB requirements, ACF will submit a request for each individual data collection activity under this generic clearance. Each request will include the individual form(s) or instrument(s), a justification specific to the individual information collection, and any supplementary documents. OMB is requested to review requests within 10 days of submission.

Respondents: ACF funding recipients.

BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hour per response	Total burden hours
Program Monitoring Forms	1500	3	10	45,000

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–14789 Filed 7–8–20; 8:45 am]

BILLING CODE 4184–79–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Committee on Heritable Disorders in Newborns and Children

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, section 1111(g) of the Public Health Service Act, this notice announces that the Advisory Committee on Heritable Disorders in Newborns and Children (ACHDNC or Committee) has scheduled a public meeting. Information about the ACHDNC and the agenda for this meeting can be found on the ACHDNC website at *https://www.hrsa.gov/advisory-committees/heritable-disorders/index.html.*

DATES: Thursday, August 6, 2020, from 10:00 a.m. to 3:00 p.m. Eastern Time (ET) and Friday, August 7, 2020, from 10:00 a.m. to 3:00 p.m. ET.

ADDRESSES: This meeting will be held via webinar. While this meeting is open to the public, advance registration is required. Please visit the ACHDNC website for information on registration: *https://www.hrsa.gov/advisory-committees/heritable-disorders/index.html.* The deadline for online registration is 12:00 p.m. ET on August 6, 2020. Instructions on how to access the meeting via webcast will be provided upon registration.

FOR FURTHER INFORMATION CONTACT: Alaina Harris, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 18W66, Rockville, Maryland 20857; 301–443–0721; or *ACHDNC@hrsa.gov.*

SUPPLEMENTARY INFORMATION: ACHDNC provides advice and recommendations to the Secretary of HHS (Secretary) on the development of newborn screening activities, technologies, policies, guidelines, and programs for effectively reducing morbidity and mortality in newborns and children having, or at risk for, heritable disorders. ACHDNC's recommendations regarding inclusion of additional conditions for screening, following adoption by the Secretary, are evidence-informed preventive health services provided for in the comprehensive guidelines supported by HRSA through the Recommended Uniform Screening Panel (RUSP) pursuant to section 2713 of the Public Health Service Act (42 U.S.C. 300gg–13). Under this provision, non-grandfathered group health plans and health insurance issuers offering group or individual health insurance are required to provide insurance coverage without cost-sharing (a co-payment, co-insurance, or deductible) for preventive services for plan years (*i.e.,* policy years) beginning on or after the date that is one year from the Secretary's adoption of the condition for screening.

During the August 6–7, 2020, meeting, ACHDNC will hear from experts in the fields of public health, medicine, heritable disorders, rare disorders, and newborn screening. Agenda items will include updates on the Committee's evidence review process. There will be no Committee votes on recommending new conditions for the RUSP. Agenda items are subject to changes as priorities dictate. Refer to the ACHDNC website for any updated information concerning the meeting. Information about the ACHDNC, a roster of members, as well as past meeting summaries, are also available on the ACHDNC website.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting. Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to provide a written statement or make oral comments to the ACHDNC must be submitted via the registration website by Monday, August 3, 2020, by 12:00 p.m. ET.

Individuals who need special assistance or another reasonable accommodation should notify Alaina Harris at the address and phone number listed above at least 10 business days prior to the meeting.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–14813 Filed 7–8–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Mental Health Council.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or proposals the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Mental Health Council.

Date: August 4, 2020.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Rockville, MD 20852 (Virtual Meeting).

Contact Person: Jean G. Noronha, Ph.D., Director Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9609, 301–443–3367, *jnoronha@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *www.nimh.nih.gov/about/advisory-boards-and-groups/namhc/index.shtml,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: July 2, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–14765 Filed 7–8–20; 8:45 am]

BILLING CODE 4140–01–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Electronic Devices, Including Computers, Tablet Computers, and Components and Modules Thereof, DN 3466;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Nokia Technologies Oy and Nokia Corporation on July 2, 2020. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices, including computers, tablet computers, and components and modules thereof. The complaint names as respondents: Lenovo (United States), Inc. of Morrisville, NC; Lenovo Group Limited of Hong Kong; Lenovo (Beijing) Limited of China; Lenovo (Shanghai) Electronics Technology Co. Ltd. of China; Lenovo PC HK Limited of Hong Kong; Lenovo Information Products Shenzhen Co. Ltd. of China; Lenovo Mobile Communication of China; Lenovo Corporation of China; and Lenovo Centro Tecnologico S. de RL CV of Mexico. The complainant requests that the Commission issue permanent exclusion orders and permanent cease and desist orders pursuant to 19 U.S.C. 1337(f).

Proposed respondent, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer

to the docket number (''Docket No. 3466'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *Electronic Filing Procedures* [1].) 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. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: July 6, 2020.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2020–14802 Filed 7–8–20; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–674]

Bulk Manufacturer of Controlled Substances Application: Purisys, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before September 8, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on May 14, 2020, Purisys, LLC, 1550 Olympic Drive Athens, Georgia 30601–1602, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Gamma-hydroxybutyic acid	2010	I
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Codeine-N-Oxide	9053	I
Dihydromorphine	9145	I
Hydromorphinol	9301	I
Nabilone	7379	II
Codeine	9050	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Hydrocodone	9193	II
Levorphanol	9220	II
Morphine	9300	II

The company plans to manufacture 7360, 7370, and 7379 as bulk active pharmaceutical ingredients and manufacture the remaining above-listed controlled substances as analytical reference standards for distribution to customers. The company also plans to use these substances for lab scale research and development activities. In reference to drug codes 7360 and 7370, the company plans to bulk manufacture these as synthetic. No other activities for these drug codes are authorized for this registration.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–14781 Filed 7–8–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Resource Conservation and Recovery Act

On July 1, 2020, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Eastern District of Wisconsin in the lawsuit entitled *United States* v. *Waste Management of Wisconsin, Inc.,* Civil Action No. 20–cv–993.

The United States brought this case under the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6901 *et seq.* The Complaint alleges that Waste Management improperly disposed of hazardous waste at the Metro Recycling and Disposal Facility in Franklin, Wisconsin. The Consent Decree requires Waste Management to pay a civil penalty of $232,000, implement a program of groundwater and leachate testing, and enforce policies designed to ensure future compliance with RCRA. The Consent Decree would resolve the United States' RCRA claims in the complaint and other potential RCRA claims based on the same type of waste addressed in the complaint.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Waste Management of Wisconsin, Inc.,* D.J. Ref. No. 90–7–1–11093. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov*
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.* We will provide a paper copy of the

Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $12.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Patricia A. McKenna,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2020–14816 Filed 7–8–20; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Workforce Innovation and Opportunity Act (WIOA) Common Performance Reporting OMB Control No. 1205–0526.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by September 8, 2020.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Toquir Ahmed by telephone at (202) 693–3901 (this is not a toll-free number), TTY 1–877–889–5627 (this is not a toll-free number), or by email at *ahmed.toquir@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Office of Policy Development and Research, Room N5641, Employment and Training Administration, 200 Constitution Ave. NW, Washington DC 20210; by email: *ahmed.toquir@dol.gov;* or by fax 202–693–2766.

FOR FURTHER INFORMATION CONTACT: Toquir Ahmed by telephone at (202) 693–3901 (this is not a toll-free number) or by email at *ahmed.toquir@dol.gov.*

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The Department of Labor (DOL) seeks approval of a revision to a current information collection request (ICR) titled ''Workforce Innovation and Opportunity Act Common Performance Reporting'' (OMB Control No. 1205–0526), previously approved June 30, 2016. This request is for a ''common forms'' clearance process. The Department of Education (ED) (the two Departments to be jointly referred to as the ''Departments'') actively participated in the development of this ICR, and is a signatory to the ''WIOA Common Performance Reporting'' information collection, which details the requirements for WIOA Statewide performance reporting.

The previous iteration of this ICR contained the following: WIOA Statewide Performance Report Template and WIOA Local Performance Report Template (ETA–9169); WIOA Joint Participant Individual Record Layout (PIRL) (ETA–9170); and WIOA Eligible Training Provider (ETP) Performance Report Specifications and WIOA Eligible Training Provider (ETP) Performance Report Definitions (ETP–9171).

This ICR revises and updates certain aspects of those existing information collection instruments. Further, a few non-substantive adjustments are included to the WIOA Eligible Training Provider (ETP) Performance Report Definitions (ETP–9171), WIOA Joint PIRL (ETA–9170) and the WIOA Statewide Performance Report Template and WIOA Local Performance Report Template (ETA–9169). These adjustments clarify data elements and align the forms with published guidance and policy.

Section 116 of WIOA (29 U.S.C. 3141) authorizes this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB Control No. 1205–0526.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, (*e.g.,* permitting electronic submission of responses).

Agency: DOL–ETA.

Type of Review: Revision.

Title of Collection: Workforce Innovation and Opportunity Act (WIOA) Common Performance Reporting System.

Forms: WIOA Statewide Performance Report Template and WIOA Local Performance Report Template (ETA–9169); WIOA Joint Participant Individual Record Layout (PIRL) (ETA–9170); and WIOA Eligible Training Provider (ETP) Performance Report Specifications and WIOA Eligible

Training Provider (ETP) Performance Report Definitions (ETP–9171).

OMB Control Number: 1205–0526.

Affected Public: State, Local, and Tribal Governments and Individuals or Households.

Estimated Number of Respondents: 19,114,384.

Frequency: Varies.

Total Estimated Annual Responses: 38,216,307.

Estimated Average Time per Response: Varies.

Estimated Total Annual Burden Hours: 14,638,609 hours.

Total Estimated Annual Other Cost Burden: $400,018,711.

(Authority: 44 U.S.C. 3506(c)(2)(A))

John Pallasch,

Assistant Secretary for Employment and Training.

[FR Doc. 2020–14790 Filed 7–8–20; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Request: Public Libraries Survey, FY 2020–FY 2022

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Submission for OMB Review, comment request.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. By this notice, IMLS is soliciting comments concerning the new three year approval of the IMLS administered Public Library Survey. A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Comments must be submitted to the office listed in the **FOR FURTHER INFORMATION CONTACT** section below on or before August 7, 2020.

ADDRESSES: Comments should be sent to Office of Information and Regulatory Affairs, *Attn.:* OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316.

FOR FURTHER INFORMATION CONTACT: Dr. Connie Bodner, Director of Grants Policy and Management, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Bodner can be reached by Telephone: 202–653–4636, or by email at *cbodner@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services is the primary source of federal support for the nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. Our vision is a nation where museums and libraries work together to work together to transform the lives of individuals and communities. To learn more, visit *www.imls.gov.*

II. Current Actions

Pursuant to Public Law 107–279, this Public Libraries Survey collects annual descriptive data on the universe of public libraries in the United States and the Outlying Areas. Information such as public service hours per year, circulation of library books, number of librarians, population of legal service area, expenditures for library collection, programs for children and young adults, staff salary data, and access to technology, etc., would be collected. The request includes new public library data regarding COVID–19. The Public Libraries Survey has been conducted by the Institute of Museum and Library Services under the clearance number 3137–0074, which expires November 30, 2022. This action is to request a new three-year approval.

IMLS is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including 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).

Agency: Institute of Museum and Library Services.

Title: Public Libraries Survey, FY 2020–FY 2022.

Agency OMB Number: 3137–0074.

Affected Public: State and local governments, State library administrative agencies, and public libraries.

Number of Respondents: 56.

Frequency: Annually.

Burden Hours per Respondent: 96.71.

Total burden hours: 5,415.76.

Total Annualized capital/startup costs: n/a.

Total Annual Costs: $153,753.43.

Total Annual Federal Costs: $805,499.35

Dated: July 6, 2020.

Kim Miller,

Senior Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2020–14793 Filed 7–8–20; 8:45 am]

BILLING CODE 7026–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

SUMMARY: The National Science Board's Committee on External Engagement, pursuant to NSF regulations, the National Science Foundation Act, as amended, and the Government in the Sunshine Act, hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows.

TIME AND DATE: Wednesday, July 15, 2020, at 1:30–2:15 p.m. EDT.

PLACE: This meeting will be held by teleconference. An audio link will be available for the public upon request at *nationalsciencebrd@nsf.gov.* Email requests must be made one day in advance.

STATUS: Open.

MATTERS TO BE CONSIDERED: Committee chair's remarks; orientation for new members; discussion of priorities; and organizing into subgroups to work on specific initiatives.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Chris Blair, *cblair@nsf.gov,* 703–292–7000. To listen to this teleconference, members of the public must send an email to *nationalsciencebrd@nsf.gov* at

least 24 hours prior to the teleconference. The National Science Board Office will send requesters a link to the audio. Meeting information and updates may be found at *http://www.nsf.gov/nsb/notices.jsp#sunshine.* Please refer to the National Science Board website at *www.nsf.gov/nsb* for general information.

Chris Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2020–14974 Filed 7–7–20; 4:15 pm]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

SUMMARY: The National Science Board's Committee on National Science and Engineering Policy (SEP), pursuant to NSF regulations, the National Science Foundation Act, as amended, and the Government in the Sunshine Act, hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows.

TIME AND DATE: Thursday, July 16, 2020 at 3:30–5:00 p.m. EDT.

PLACE: This meeting will be held by videoconference through the National Science Foundation. An audio link will be available for the public. Contact the Board Office 24 hours before the teleconference to request the public audio link at *nationalsciencebrd@nsf.gov.*

STATUS: Open.

MATTERS TO BE CONSIDERED: Chair's opening remarks; discuss SEP priorities for policy products in the next 6–12 months; and hear about proposed changes to the next edition of the Indicators S&E labor force thematic report.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Chris Blair, *cblair@nsf.gov,* 703–292–7000. To listen to this teleconference, members of the public must send an email to *nationalsciencebrd@nsf.gov* at least 24 hours prior to the teleconference. The National Science Board Office will send requesters a link to the audio. Meeting information and updates (time, place, subject matter or status of meeting) 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 additional information.

Chris Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2020–14965 Filed 7–7–20; 4:15 pm]

BILLING CODE 7555–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–188 and CP2020–213; MC2020–189 and CP2020–214; MC2020–190 and CP2020–215; MC2020–191 and CP2020–216; MC2020–192 and CP2020–217; MC2020–193 and CP2020–218]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 13, 2020.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2020–188 and CP2020–213; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 153 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 2, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Curtis E. Kidd; *Comments Due:* July 13, 2020.

2. *Docket No(s).:* MC2020–189 and CP2020–214; *Filing Title:* USPS Request to Add Parcel Select and Parcel Return Service Contract 11 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 2, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Curtis E. Kidd; *Comments Due:* July 13, 2020.

3. *Docket No(s).:* MC2020–190 and CP2020–215; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 70 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 2,

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Curtis E. Kidd; *Comments Due:* July 13, 2020.

4. *Docket No(s).:* MC2020–191 and CP2020–216; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 71 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 2, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* July 13, 2020.

5. *Docket No(s).:* MC2020–192 and CP2020–217; *Filing Title:* USPS Request to Add Priority Mail Contract 633 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 2, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* July 13, 2020.

6. *Docket No(s).:* MC2020–193 and CP2020–218; *Filing Title:* USPS Request to Add Priority Mail Contract 634 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 2, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* July 13, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–14811 Filed 7–8–20; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 9, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 2, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 634 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–193, CP2020–218.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–14740 Filed 7–8–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, & First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 9, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 2, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 70 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–190, CP2020–215.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–14739 Filed 7–8–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 9, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 2, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 633 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–192, CP2020–217.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–14734 Filed 7–8–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 9, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 30, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 632 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–187, CP2020–212.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–14729 Filed 7–8–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a

domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 9, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 24, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 152 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–184, CP2020–208.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–14728 Filed 7–8–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 9, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 26, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 631 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–186, CP2020–210.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–14737 Filed 7–8–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, & First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 9, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 2, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 71 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–191, CP2020–216.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–14730 Filed 7–8–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Parcel Select and Parcel Return Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 9, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 2, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Parcel Select and Parcel Return Service Contract 11 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–189, CP2020–214.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–14738 Filed 7–8–20; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89218; File No. SR–FINRA–2020–020]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Adopt FINRA Rule 3241 (Registered Person Being Named a Customer's Beneficiary or Holding a Position of Trust for a Customer)

July 2, 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 23, 2020, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to adopt FINRA Rule 3241 (Registered Person Being Named a Customer's Beneficiary or Holding a Position of Trust for a Customer).

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

Background

Investment professionals, including registered persons of member firms, face potential conflicts of interest when they are named a customer's beneficiary, executor, or trustee or holding a power of attorney or a similar position for or on behalf of their customer. These conflicts of interest can take many forms and can include a registered person benefiting from the use of undue and inappropriate influence over important financial decisions to the detriment of a customer. Moreover, problematic arrangements may not become known to the member firm or customer's other beneficiaries or surviving family members for years. Senior investors who are isolated or suffering from cognitive decline are particularly vulnerable to harm.[3]

Many, but not all, member firms address these conflicts by prohibiting or imposing limitations on their investment professionals, including registered persons, being named as a beneficiary or to a position of trust when there is not a familial relationship.[4] Even where a member firm has policies and procedures, FINRA has observed situations where registered representatives have tried to circumvent firm policies and procedures, such as resigning as a customer's registered representative, transferring the customer to another registered representative, or having the customer name the registered representative's spouse or child as the customer's beneficiary.[5]

FINRA has taken steps to address misconduct in this area, including:

(1) Identifying effective practices for member firms; [6]

(2) Setting as an examination priority member firms' supervision of accounts where a registered representative is named a beneficiary, executor, or trustee or holds a power of attorney or a similar position for or on behalf of a customer who is not a family member; [7]

(3) Reviewing customer complaints received directly by FINRA and those reported by member firms pursuant to FINRA Rule 4530 (Reporting Requirements) or Form U4 (Uniform Application for Securities Industry Registration or Transfer);

(4) Reviewing regulatory filings made by firms on Form U5 (Uniform Termination Notice for Securities Industry Registration related to terminations for cause) disclosing related issues;

(5) Reviewing matters referred by an arbitrator to FINRA for disciplinary investigation; and

(6) Depending on the facts and circumstances of the conduct at issue, bringing actions for violations of FINRA rules, such as FINRA Rules 2010 (Standards of Commercial Honor and Principles of Trade), 2150 (Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts), 3240 (Borrowing From or Lending to Customers) or 3270 (Outside Business Activities of Registered Persons).[8]

Proposed Rule Change

To further address potential conflicts of interest that can result in registered persons exploiting or taking advantage of being named beneficiaries or holding positions of trust for personal monetary gain, FINRA proposes adopting new Rule 3241 to create a uniform, national standard to govern registered persons holding positions of trust. This new national standard will better protect investors and provide consistency across member firms' policies and procedures. Proposed Rule 3241 would provide that a registered person must decline:

(1) Being named a beneficiary of a customer's estate [9] or receiving a bequest from a customer's estate upon learning of such status unless the registered person provides written notice upon learning of such status and receives written approval from the member firm prior to being named a beneficiary of a customer's estate or receiving a bequest from a customer's estate; and

(2) Being named as an executor or trustee or holding a power of attorney or similar position for or on behalf of a customer unless:

(a) Upon learning of such status, the registered person provides written notice and receives written approval from the member firm prior to acting in such capacity or receiving any fees, assets or other benefit in relation to acting in such capacity; and

(b) The registered person does not derive financial gain from acting in such capacity other than from fees or other charges that are reasonable and customary for acting in such capacity.[10]

The proposed rule change would not apply where the customer is a member of the registered person's immediate family.[11] The proposed rule change applies to customers who are not immediate family members because of the greater potential risk that the registered person has been named a beneficiary or to a position of trust by virtue of the broker-customer relationship. The proposed rule change also would not affect the applicability of other rules (*e.g.,* FINRA Rule 2150 regarding improper use of customer securities or funds). If the proposed rule change is approved, FINRA would assess registered persons' and firms' conduct pursuant to Rule 3241 to determine the effectiveness of the rule in addressing potential conflicts of interest and evaluate whether additional

[3] *See, e.g.,* SEC Office of the Investor Advocate, Elder Financial Exploitation White Paper (June 2018) and International Organization of Securities Commissions (IOSCO) Senior Investor Vulnerability Final Report (March 2018) (noting that senior investors are more vulnerable to financial exploitation due to social isolation, cognitive decline and other factors).

[4] *See* Report on the FINRA Securities Helpline for Seniors (December 2015) and Report on FINRA Examination Findings (December 2018) (both discussing member firm policies observed by FINRA staff).

[5] *Id.* [sic].

[6] *Id.* [sic].

[7] *See* FINRA 2018 Regulatory and Examination Priorities Letter (January 2018), FINRA 2019 Risk Monitoring and Examination Priorities Letter (January 2019), and FINRA Risk Monitoring and Examination Priorities Letter (January 2020).

[8] *See, e.g.,* Robert Torcivia, Letter of Acceptance, Waiver and Consent, Case ID 2015044686701 (September 26, 2018) (finding, under the facts of the case, that the registered representative violated FINRA Rule 2010 in relation to accepting beneficiary designations and holding powers of attorney for senior customers and failing to inform the member firm of these positions).

[9] For purposes of the proposed rule change, a customer's estate would include any cash and securities, real estate, insurance, trusts, annuities, business interests and other assets that the customer owns or has an interest in at the time of death. *See* proposed Supplementary Material .02 to Rule 3241. The proposed scope is consistent with includable property in a decedent's gross estate for federal tax purposes. *See, e.g.,* IRS FAQs on Estate Taxes, available at *https://www.irs.gov/businesses/small-businesses-self-employed/frequently-asked-questions-on-estate-taxes#2.*

[10] *See* proposed Rule 3241(a). For example, receipt of a gift from a customer for acting as an executor or trustee or holding a power of attorney or similar position for or on behalf of the customer would be considered deriving financial gain from acting in such capacity.

[11] The proposed rule change would define ''immediate family'' to mean parents, grandparents, mother-in-law or father-in-law, spouse or domestic partner, brother or sister, brother-in-law or sister-in-law, son-in law or daughter-in-law, children, grandchildren, cousin, aunt or uncle, or niece or nephew, and any other person who resides in the same household as the registered person and the registered person financially supports, directly or indirectly, to a material extent. The term includes step and adoptive relationships. *See* proposed Rule 3241(c).

rulemaking or other action is appropriate.

Knowledge

A registered person being named as a beneficiary or to a position of trust without his or her knowledge would not violate the proposed rule change; however, the registered person must act consistent with the proposed rule change upon learning that he or she was named as a beneficiary or to a position of trust. The proposed rule change would apply when the registered person learns of his or her status as a customer's beneficiary or a position of trust for or on behalf of a customer. A registered person may decline being named as a beneficiary or to a position of trust and decline receipt of any assets or other benefit from the customer's estate so as not to violate the proposed rule change. For example, if a customer named her registered person as her beneficiary without the beneficiary's knowledge, the proposed rule change would not apply and the registered person would not be in violation of the proposed rule change. However, when the registered person became aware of being so named (*e.g.,* when the registered person is notified that he or she is to receive a bequest from the customer's estate), the requirements of the proposed rule change would apply and the registered person must act consistent with the proposed rule change (*i.e.,* by declining the bequest unless he or she provides notice to and receives approval from the member firm).

Firm Notice and Approval

To provide flexibility to member firms, the proposed rule change does not prescribe any specific form of written notice and instead would permit a member firm to specify the required form of written notice for its registered persons. Upon receipt of the written notice, the proposed rule change would require the member firm to:

(1) Perform a reasonable assessment of the risks created by the registered person's assuming such status or acting in such capacity, including, but not limited to, an evaluation of whether it will interfere with or otherwise compromise the registered person's responsibilities to the customer; [12] and

(2) Make a reasonable determination of whether to approve the registered person's assuming such status or acting in such capacity, to approve it subject to specific conditions or limitations, or to disapprove it.[13]

If a member firm approves the registered person's assuming such status or acting in such capacity, the member firm has supervisory responsibilities following approval. If the member firm imposes conditions or limitations on its approval, the member firm would be required to reasonably supervise the registered person's compliance with the conditions or limitations.[14] Moreover, where a registered person is knowingly named a beneficiary, executor, or trustee or holds a power of attorney or a similar position for or on behalf of a customer account *at* the member firm with which the registered person is associated and the member firm has approved the registered person assuming such status or position, the member firm must supervise the account in accordance with FINRA Rule 3110 (Supervision), including the longstanding obligation to follow-up on ''red flags'' indicating problematic activity. As to this latter point, with the notification and assessment of a registered person being named as a beneficiary or to a position of trust in relation to a customer account *at the member firm,* there is inherently more information from which red flags may surface. If a registered person is approved to hold (and receive compensation for) a position of trust for a customer *away from the member firm,* the requirements of both the proposed rule change and Rule 3270 regarding outside business activities would apply to the activities away from the firm.[15]

The proposed rule change would require a member firm to establish and maintain written procedures to comply with the rule's requirements.[16] The proposed rule change would also require member firms to preserve the written notice and approval for at least three years after the date that the beneficiary status or position of trust has terminated or the bequest received or for at least three years, whichever is earlier, after the registered person's association with the firm has terminated.[17] The proposed record retention requirement is similar to the requirement in Rule 3240.

Reasonable Assessment and Determination

FINRA expects that a member firm's reasonable assessment of the risks created by the registered person's assuming such status or acting in such capacity would take into consideration several factors, such as:

(1) Any potential conflicts of interest in the registered person being named a beneficiary or holding the position of trust;

(2) The length and type of relationship between the customer and registered person;

(3) The customer's age;

(4) The size of any bequest relative to the size of a customer's estate;

(5) Whether the registered representative has received other bequests or been named a beneficiary on other customer accounts.

(6) Whether, based on the facts and circumstances observed in the member's business relationship with the customer, the customer has a mental or physical impairment that renders the customer unable to protect his or her own interests;

(7) Any indicia of improper activity or conduct with respect to the customer or the customer's account (*e.g.,* excessive trading); and

(8) Any indicia of customer vulnerability or undue influence of the registered person over the customer.

This list is not intended to be an exhaustive list of factors that a member firm may consider as part of its assessment. Moreover, while a listed factor may not be applicable to a particular situation, the factors that a member firm considers should allow for a reasonable assessment of the associated risks so that the member firm can make a reasonable determination of whether to approve the registered person assuming a status or acting in a capacity.

For example, a registered person's request to hold a position of trust for an elderly customer who had no relationship with the representative prior to the initiation of the broker-customer relationship is likely to present different risks than a registered person's request to hold a position of trust for a longstanding friend. FINRA would not expect a registered person's assertion that a customer has no viable

[12] In the event that the customer is deceased when the registered person becomes aware that he or she was named the customer's beneficiary, FINRA would expect the member firm's reasonable assessment to include an evaluation of the registered person's relationship with the customer prior to the customer's death (*e.g.,* any red flags of improper conduct by the registered person).

[13] *See* proposed Rule 3241(b).

[14] *See* proposed Rule 3241(b)(3).

[15] There may be arrangements where a registered person holds a position of trust for a customer away from the firm but the requirements of Rule 3270 do not apply because the arrangement is not one of the listed positions in Rule 3270 (*i.e.,* an employee, independent contractor, sole proprietor, officer, director or partner of another person) or the registered person is not compensated, or have the reasonable expectation of compensation, from any other person as a result of any business activity outside the scope of the relationship with his member firm.

[16] *See* proposed Rule 3241(b)(4).

[17] *See* proposed Supplementary Material .03 to Rule 3241.

alternative person to be named a beneficiary or to serve in a position of trust to be dispositive in the member firm's assessment.

The proposed rule change would not prohibit a registered person being named a beneficiary of or receiving a bequest from a customer's estate. However, given the potential conflicts of interest, under the proposed rule change a member firm would need to carefully assess a registered person's request to be named a beneficiary of or receive a bequest from a customer's estate, and reasonably determine that the registered person assuming such status does not present a risk of financial exploitation (*e.g.,* a registered person receiving a bequest from a customer who has been a godparent since childhood or a customer who has been a friend since childhood) that the proposed rule is designed to address.

If possible, as part of the reasonable assessment of the risks, FINRA would expect a member firm to discuss the potential beneficiary status or position of trust with the customer as part of its reasonable determination of whether to approve the registered person assuming the status or acting in the capacity.

Scope of Proposed Rule

To address attempted circumvention of the restrictions (*e.g.,* by closing or transferring a customer's account), the proposed rule change would define ''customer'' to include any customer that has, or in the previous six months had, a securities account assigned to the registered person at any member firm.[18] Member firms have flexibility to reasonably design their supervisory systems to achieve compliance with the proposed rule change (*e.g.,* by using training, certifications or other measures). In addition, as discussed below, the proposed rule change would require the registered person, within 30 calendar days of becoming so associated, to provide notice to and receive approval from the member consistent with the rule to maintain the beneficiary status or position of trust.[19]

A registered person who does not have customer accounts assigned to him or her would not be subject to the proposed rule change. In addition, a registered person instructing or asking a customer to name another person to be a beneficiary of the customer's estate or to receive a bequest from the customer's estate would present similar conflict of interest concerns as the registered person being so named. Accordingly, the proposed rule change would not allow a registered person to instruct or ask a customer to name another person, such as the registered person's spouse or child, to be a beneficiary of the customer's estate or to receive a bequest from the customer's estate.[20]

Beneficiary Status and Positions of Trust Prior to Association With Member Firm

Registered persons move with some frequency between member firms. If a registered person was named as a beneficiary or to a position of trust prior to the registered person's association with the member firm, the proposed rule change would require the registered person, within 30 calendar days of becoming so associated, to provide notice to and receive approval from the member consistent with the rule to maintain the beneficiary status or position of trust.[21]

Pre-Existing Beneficiary Status and Positions of Trust

Potential conflicts of interest also exist when the beneficiary status or position of trust was entered into prior to the existence of a broker-customer relationship, such as where the customer was not a customer of the registered person at the time at which the registered person was named beneficiary or to a position of trust. These situations also have the potential that investment and other financial decisions will benefit the registered person as the customer's beneficiary or holder of a position of trust rather than the customer. Therefore, the proposed rule change would require the registered person and member firm to act consistent with the rule for any existing beneficiary status or position of trust prior to the initiation of the broker-customer relationship.[22]

If the Commission approves the proposed rule change, FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The implementation date will be no later than 180 days following publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

The proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

FINRA believes that the proposed rule change would result in minimal costs to member firms, while providing additional investor protections where such policies do not currently exist, are not consistently applied or are less restrictive than the proposed changes. The proposed rule change will ultimately benefit the investor community, and promote greater trust in the brokerage industry, by reducing the potential exploitation of vulnerable investors. FINRA believes that establishing an industry-wide benchmark for situations in which registered persons request member firm approval to be named beneficiaries or to positions of trust mitigate potential conflicts of interest consistently across the industry for all customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. All members would be subject to the proposed rule change.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to further analyze the regulatory need for the proposed rule change, its potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, relative to the current baseline, and the alternatives FINRA considered in assessing how best to meet its regulatory objective.

[18] *See* proposed Supplementary Material .01 to Rule 3241. A securities account would include, for example, a brokerage account, mutual fund account or variable insurance product account. For purposes of the proposed rule change, therefore, a registered person who is listed as the broker of record on a customer's account application for an account held directly at a mutual fund or variable insurance product issuer would be subject to the proposed rule's obligations (this is sometimes referred to as ''check and application,'' ''application way,'' or ''direct application'' business).

[19] *See* proposed Supplementary Material .04 to Rule 3241.

[20] *See* proposed Supplementary Material .06 to Rule 3241.

[21] *See* proposed Supplementary Material .04 to Rule 3241.

[22] *See* proposed Supplementary Material .05 to Rule 3241. The proposed rule change would apply if the registered person is named a beneficiary or receives a bequest from a customer's estate after the effective date of the rule. For the non-beneficiary positions, the proposed rule change would apply to positions that the registered person was named to prior to the rule becoming effective only if the initiation of the broker-customer relationship was after the effective date of the proposed rule.

Regulatory Need

FINRA is active in its efforts to protect senior and financially vulnerable investors from exploitation. In the context of these efforts, and with evidence of a growing trend of such exploitation, FINRA has recognized the potential conflict of interests that can arise from having a customer name their registered representative as a beneficiary or to a position of trust. To mitigate such conflicts of interest, as well as any potential resulting harm, FINRA is proposing adoption of Rule 3241.

Economic Baseline

The economic baseline for the proposed rule change is based on the existing firm policies and practices on beneficiary status and positions of trust, as well as the prevalence of registered persons being named in such capacity. To gauge the extent of both, FINRA has sought information with regard to current practices from a sample of member firms and trade associations. Specifically, FINRA sought information on current practices from firms represented on FINRA advisory committees and engaged trade associations in conversations. Information obtained indicates that the majority of firms have existing policies in place with respect to registered persons being named beneficiaries or to positions of trust.

The majority of member firms that participated in FINRA's outreach efforts indicated that they currently do not permit a registered person to be named a beneficiary for a customer who is not a family member, with some variations on how family relationship is defined. Firms indicated that they are more likely to allow registered persons to be named to positions of trust, in compliance with the firm's internal processes and procedures. Registered persons are typically required to request approval from the member firm to be named as a beneficiary or to a position of trust. Approval is usually requested through the outside business activities submission process. Monitoring of compliance with the procedures is conducted through the member firms' various control functions including, for example, branch exams, annual questionnaire responses, and supervisory review of emails. FINRA understands, based on anecdotal information collected through its outreach efforts, that over the past five years more than 85% of such requests by registered persons have been on behalf of immediate family members.

Economic Impacts

FINRA believes that the economic impacts of the proposed rule change would result in minimal costs to member firms, while benefiting the investor community by providing additional investor protections where such policies do not currently exist, are not consistently applied or are less restrictive than the proposed changes.

The proposed rule change will ultimately benefit the investor community, and promote greater trust in the brokerage industry, by potentially reducing the exploitation of vulnerable investors. FINRA believes that establishing an industry-wide benchmark for situations in which registered persons request to be named beneficiaries or to positions of trust mitigate potential conflicts of interest consistently across the industry for all customers. As described above, such conflicts of interest can include, but are not limited to, a registered person benefiting from the use of undue and inappropriate influence over important financial decisions to the detriment of a customer.

Anecdotal information provided to FINRA indicates that most member firms that participated in the outreach efforts have in place both specific policies and procedures to manage requests for registered persons to act in a position of trust, as well as mechanisms to monitor compliance. FINRA believes that where member firms already have these types of policies and procedures in place, the costs of the proposed rule change should be low, mostly stemming from compliance requirements. For example, FINRA observed some variation in firm policies regarding whether a registered person may be named a customer's beneficiary after transferring the customer account to another registered person. As this specific issue could result in circumvention of the regulatory intent of the proposed rule, FINRA is proposing to include a six-month look-back period with respect to the customer-registered person relationships. FINRA believes that this will provide some guardrails against attempts to circumvent the proposed rule, while imposing minimal costs on firms with respect to monitoring of transfers of accounts.

Member firms with different policies and procedures, whether more or less restrictive than proposed here, would likely incur costs to amend them. Those firms required to establish a higher standard for these activities may also incur new on-going supervisory costs. The same would be true for those member firms with no current policies or procedures covering these situations. Member firms with existing practices that are more restrictive than the proposed rule change could maintain those policies. However, member firms altering their current policies and procedures to be in alignment with the proposed rule change are expected to incur one-time costs to do so. Member firms will also incur some costs to provide training on the new requirements for registered persons.

FINRA recognizes that the proposed rule change can result in a diminishing of customer choice in identifying a person to serve in a capacity of trust. There may be circumstances where the registered person represents a better alternative to the customer than other available options. There may also be costs to a customer to amend estate or other legal documents if the member firm disapproves a registered person being named a beneficiary, executor, or trustee or holding a power of attorney or a similar position for or on behalf of the customer. Despite the potential loss of an appropriate person to serve in a capacity of trust or potential costs to a customer to amend estate or other legal documents, FINRA believes that this cost is justified by the protections afforded to investors by significantly mitigating the particular conflict of interest.

FINRA recognizes that investment advisers, as well as other financial services professionals under different regulatory oversight, potentially have similar conflicts of interest with their customers when engaged in these activities. This is the case because the conflict of interest is not unique to the brokerage industry. Rather, the conflict arises from the pecuniary benefits that may accrue because of the nature of the relationship between the customer and the financial professional. However, there is no available information or data to permit FINRA to gauge the prevalence and impact of such relationships between these other financial professionals and their customers. Further, it is difficult to gauge the circumstances under which differences in the regulatory treatment of this activity would impact competition.

Alternatives Considered

FINRA considered various alternatives to the provisions in the proposed rule change. One alternative considered was prohibiting a registered person from inducing a customer to name the registered person as a beneficiary of the customer's estate. FINRA believes that the proposed rule

change is a better approach for addressing potential conflicts of interest because of the inherent difficulty in proving inducement. Second, FINRA considered an outright prohibition of some or all positions of trust, but decided against that approach as some positions of trust, if properly known to and supervised by member firms, may benefit customers. Third, FINRA understands that member firms may have different approaches to defining family members in their current policies. FINRA considered different definitions of the term ''immediate family,'' and ultimately based the definition in the proposed rule change on the definition in Rule 3240 with some changes to modernize the scope of covered persons and to incorporate the requirement that the other person reside in the same household as the registered person. FINRA believes that this approach is appropriate given that member firms have the discretion to review and approve arrangements with customers who are not ''immediate family'' as defined in the proposed rule change, but may be considered family members in member firms' current policies.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for comment in *Regulatory Notice* 19–36 (November 2019) (''*Notice* 19–36 Proposal''). FINRA received 17 comment letters in response to the *Notice* 19–36 Proposal. A copy of the *Notice* 19–36 Proposal is attached [sic] as Exhibit 2a. Copies of the comment letters received in response to the *Notice* 19–36 Proposal are attached [sic] as Exhibit 2c.[23]

The comments and FINRA's responses are set forth in detail below.

Support for the Notice 19–36 Proposal

Six commenters expressed support for the *Notice* 19–36 Proposal.[24] For example, ASA supported the proposed approach and stated that for most member firms, the *Notice* 19–36 Proposal would not fundamentally alter current practices or significantly increase the costs of compliance but would help crack down on those instances where unscrupulous actors within the industry try to exploit existing loopholes within the regulatory framework. FSI stated that the *Notice* 19–36 Proposal establishes clear parameters for member firms and financial professional to follow and appropriately allows member firms the flexibility to tailor the process to their unique business model.

While supporting the *Notice* 19–36 Proposal, the St. John's Clinic suggested also requiring member firms to disclose more information about a broker's employment status and reason for termination than would otherwise be available on BrokerCheck as a registered person may obtain a position of trust shortly after being terminated by a member firm. Mack also supported the *Notice* 19–36 Proposal and suggested requiring additional supervision and a surprise audit requirement when a registered person has been approved to hold a position of trust for a customer. Requirements related to disclosing more information about a registered person's employment status and reasons for termination than would otherwise be available on BrokerCheck are beyond the scope of the proposed rule change. If the proposed rule change is approved, FINRA would assess registered persons' and firms' conduct pursuant to the rule to determine the effectiveness of the rule in addressing potential conflicts of interest and evaluate whether additional rulemaking or other action is appropriate.

Four additional commenters expressed support for some aspects of the *Notice* 19–36 Proposal but suggested material changes to the *Notice* 19–36 Proposal.[25] Bolton supported the *Notice* 19–36 Proposal's addressing a registered person being named a customer's beneficiary, but suggested that holding positions of trust could be addressed under the outside business activity framework in existing FINRA rules.

The proposed rule change's requirement that a registered person provide notice to and receive approval from the member with which he or she is associated is similar to the requirements for notice and approval of outside business activities in Rule 3270. Pursuant to Rule 3270, no registered person may be an employee, independent contractor, sole proprietor, officer, director or partner of another person, or be compensated from any other person as a result of any business activity away from the member firm, unless he or she has provided prior written notice to the member.[26] The proposed rule would apply where a registered person is named to a position of trust for a customer of the member firm. If a registered person is approved to hold (and receive compensation for) a position of trust for a customer *away* from the member firm, the requirements of both the proposed rule change and Rule 3270 would apply to the activities away from the firm.[27]

Fitapelli and Silver Law supported rulemaking in this area, but stated that a registered person should not be permitted to be a beneficiary of or hold a position of trust for a customer who is not an immediate family member. Fitapelli also suggested requiring member firm notification and approval for situations involving a registered representative's dealings with immediate family members.

The proposed rule change applies to customers who are not immediate family members because of the greater potential risk that the registered person has been named a beneficiary or to a position of trust by virtue of the broker-customer relationship. Recognizing that a registered person and customer may have a close and longstanding friendship or relationship that may be akin to, but not actually, a familial relationship, the proposed rule change would not prohibit a registered person being named a beneficiary of or receiving a bequest from a customer's estate. However, given the potential conflicts of interest that can result in registered persons exploiting or taking advantage of being named beneficiaries or holding positions of trust for personal monetary gain, in assessing a registered person's request to be named a beneficiary of or receive a bequest from a customer's estate, FINRA would expect approval to be given only when the member firm has made a reasonable determination that the registered person being named a beneficiary or receiving a bequest from a customer does not present a risk of financial exploitation that the proposed rule change is designed to address. A member firm may choose to go beyond the proposed rule change to: (1) Require notification and approval when a registered person is named a beneficiary or named to a position of trust for immediate family members; (2) further limit or prohibit registered persons from being named a customer's beneficiary or to a position of trust for a customer; or (3) impose additional obligations on the registered

[23] *See* Exhibit 2b for a list of abbreviations assigned to commenters.

[24] *See* ASA, FSI, Mack, PIABA, SIFMA and St. John's Clinic.

[25] *See* Bolton, Cambridge, Fitapelli and Silver Law.

[26] FINRA is separately conducting a retrospective review of FINRA's rules governing outside business activities and private securities transactions, Rule 3270 and FINRA Rule 3280 (Private Securities Transactions of an Associated Person), respectively. *See Regulatory Notice* 18–08 (Outside Business Activities).

[27] FINRA also reminds members of registered persons' separate reporting obligations for Form U4, including Form U4 section 13, Other Business.

person when he or she is named a beneficiary or to a position of trust for a customer.

Cambridge agreed with many aspects of the *Notice* 19–36 Proposal but suggested some modifications. Cambridge stated that a mandatory rejection of the customer designating the registered person as a beneficiary could result in a scenario where the customer's intended designation would fail in its entirety and instead proposed adoption of a presumption in favor of the validity of the nomination unless and until, based on a subsequent review, the member firm determines that the nomination should not be honored.

Given the potential conflicts of interest, FINRA would expect a member firm to employ heightened scrutiny in assessing a registered person's request to be named a beneficiary of or receive a bequest from a customer's estate. Moreover, given the potential conflicts of interest, FINRA does not agree that a beneficiary designation should be presumed valid and free of potential conflicts of interest.

Cambridge also suggested that, because executorships may be subject to judicial review and often pertain to the customer's posthumous estate, the inclusion of executorships in the *Notice* 19–36 Proposal is unnecessary. However, an executorship may provide a registered person with significant control over a customer's finances and, consequently, may present significant conflicts of interest. As such, including executorships among the positions of trust that are covered by the proposed rule change is appropriate.

Opposition to the Notice 19–36 Proposal

An anonymous commenter did not support the *Notice* 19–36 Proposal because it may limit customer choice where a customer does not have another person to be named his or her beneficiary. FINRA has observed that investment professionals, including registered persons, often develop close and trusted relationships with their customers, which in some instances have resulted in the investment professional being named the customer's beneficiary. However, being a customer's beneficiary may present significant conflicts of interest. FINRA would not expect a registered person's assertion that a customer has no viable alternative person to be named a beneficiary or to serve in a position of trust to be dispositive in the member firm's assessment.

Kaplon did not support the *Notice* 19–36 Proposal and suggested instead that member firm procedures are sufficient to address potential conflicts of interest. FINRA has observed that many, but not all, member firms address these potential conflicts by prohibiting or imposing limitations on being named as a beneficiary or to a position of trust when there is not a familial relationship. Even where a member firm has policies and procedures, FINRA has observed situations where registered representatives have tried to circumvent firm policies and procedures, such as resigning as a customer's registered representative, transferring the customer to another registered representative, or having the customer name the registered representative's spouse or child as the customer's beneficiary.

NASAA suggested that registered persons, their family members and any entities controlled by the registered persons should be prohibited from being named as a beneficiary or appointed to a position of trust by a customer unless the customer is an immediate family member. Moreover, NASAA suggested that even if the *Notice* 19–36 Proposal was limited to immediate family members, the registered person should be required to seek prior written authorization from the member firm and the member firm should be required to implement heightened supervision of the accounts. NASAA further suggested that if FINRA proceeds with allowing registered persons to be named as beneficiaries or serve in positions of trust for customers beyond their immediate family members, FINRA should, at a minimum, require the member firm to implement heightened supervision of these accounts and should explicitly state that member firms may choose to limit or prohibit registered persons to be named as a beneficiary or serve in positions of trust.

As stated in *Notice* 19–36, FINRA considered an outright prohibition of some or all positions of trust, but decided against that approach as some positions of trust, if properly known to and supervised by member firms, may benefit customers. For example, assuming that the member firm has done a reasonable assessment of the potential conflicts of interest before making a reasonable determination to approve the arrangement, a registered person with financial acumen and knowledge of a customer's financial circumstances may be better positioned to serve in a position of trust than other alternatives available to the customer.

As discussed above, the proposed rule change applies to customers who are not immediate family member because of the greater potential risk that the registered person has been named a beneficiary or to a position of trust by virtue of the broker-customer relationship. The risk that a registered person misused his or her role in the broker-customer relationship to be named a beneficiary or hold a position of trust is reduced when the customer is an immediate family member.

As discussed in Item II *supra,* a member firm has supervisory obligations regarding any status or arrangement that is approved by the member firm. If the member firm imposes conditions or limitations on its approval, the member firm would be required to reasonably supervise the registered person's compliance with the conditions or limitations.[28] Moreover, where a registered person is named a beneficiary, executor, or trustee or holds a power of attorney or a similar position for or on behalf of a customer account *at* the member firm with which the registered person is associated, the member firm must supervise the account in accordance with FINRA Rule 3110 (Supervision), including the longstanding obligation to follow-up on ''red flags'' indicating problematic activity. As to this latter point, with the notification and assessment of a registered person being named as a beneficiary or to a position of trust in relation to a customer account at the member firm, there is inherently more information from which red flags may surface. If a registered person is approved to hold (and receive compensation for) a position of trust for a customer *away* from the member firm, the requirements of both the proposed rule change and Rule 3270 regarding outside business activities would apply to the activities away from the firm.

As noted above, a member may choose to go beyond the proposed rule change to: (1) Require notification and approval when a registered person is named a beneficiary or named to a position of trust for immediate family members; (2) further limit or prohibit registered persons from being named a customer's beneficiary or to a position of trust for a customer; or (3) impose additional obligations on the registered person when he or she is named a beneficiary or to a position of trust for a customer.

Knowledge

FSI and SIFMA agreed with the *Notice* 19–36 Proposal's approach to apply the proposed requirements only after the registered person has knowledge that he or she was named as a beneficiary or to a position of trust. Cole expressed general support for the *Notice* 19–36 Proposal but stated that a

[28] *See* proposed Rule 3241(b)(3).

member firm should not be liable if the customer does not share his or her estate documents with the firm. Duran expressed concern about adopting a rule that would apply where the customer did not share his or her estate documents naming the registered person as a beneficiary and the registered person did not have control over the customer's action.

As discussed in Item II *supra,* a registered person being named as a beneficiary or to a position of trust without his or her knowledge would not violate the proposed rule change; however, the registered person must act consistent with the proposed rule change upon learning that he or she was named as a beneficiary or to a position of trust. The proposed rule change would apply when the registered person learns of his or her status as a customer's beneficiary or a position of trust for or on behalf of a customer. A registered person may: (1) Provide notice to and receive approval from the member firm with which he or she is associated consistent with the proposed rule change; or (2) decline being named as a beneficiary or to a position of trust and decline receipt of any assets or other benefit from the customer's estate so as not to violate the proposed rule change.

Firm Notice and Approval

NASAA supported requiring a specific form of written notice for use by a registered person in requesting approval from the member firm with which he or she is associated. Absent a specific form, NASAA suggested providing guidance regarding the information the registered person should provide to the member firm. FINRA proposes to provide member firms with flexibility in what form of written notice is required pursuant to the proposed rule change and, consequently, no specific form of written notice would be required by the proposed rule change. Because the proposed rule change requires each member firm to perform a reasonable assessment and make a determination of whether to approve or disapprove the status or arrangement, a member firm should obtain through the written notice or subsequent communications with the registered person or customer information sufficient upon which to perform the required assessment and make the related determination.

Reasonable Assessment and Determination

Cambridge requested clarification that the factors listed in *Regulatory Notice* 19–36 are not mandatory considerations as part of a member firm's assessment of whether to approve a position or arrangement. FINRA expects that a member firm's assessment would take into consideration several factors, such as the non-exhaustive list of factors provided in *Regulatory Notice* 19–36. While a factor may not be applicable to a particular situation, the factors considered by the member firm should allow for a reasonable assessment of the associated risks so that the member firm can make a reasonable determination of whether to approve the registered person assuming a status or acting in a capacity.

Cambridge also stated that it is neither appropriate nor reasonable to obligate a member firm to determine whether a customer suffers from an impairment as part of this assessment. In making the reasonable assessment and determination, a member firm is not required to seek to obtain a customer's medical information or make a medical determination related to a customer. However, a member firm may become aware of information related to the customer's physical or mental impairment as part of the member firm's business relationship with the customer (*e.g.,* the customer may indicate to the firm that she was diagnosed with dementia). In these circumstances, FINRA expects that a member firm would take into consideration a customer's known mental or physical impairment that renders the individual unable to protect his or her own interests (*e.g.,* if the member firm is aware that the customer was diagnosed with dementia before naming the registered person as her beneficiary).

''Customer'' Definition

To address attempted circumvention of the restrictions (*e.g.,* by closing or transferring a customer's account), the proposed rule change would define ''customer'' to include any customer that has, or in the previous six months had, a securities account assigned to the registered person at any member firm. Commenters had differing views on the inclusion of a six-month look-back period in the proposed ''customer'' definition. Cambridge requested eliminating the phrase ''or in the previous six months'' from the proposed definition of ''customer'' because inclusion of the look-back period denies the member firm flexibility in accommodating fact-specific circumstances. NASAA, on the other hand, suggested that the proposed ''customer'' definition be amended to include a 12-month look-back provision to prevent circumvention of the restrictions.

The inclusion of the look-back period is important in addressing potential conflicts of interest and circumvention of the proposed rule change. FINRA believes the six-month period strikes an appropriate balance between achieving the regulatory objective of addressing circumvention of the proposed rule change by transferring the customer account to another registered person and imposing reasonable requirements on member firms in tracking account transfers.

''Immediate Family'' Definition

Fitapelli suggested revising the definition of ''immediate family'' that was included in the *Notice* 19–36 Proposal to exclude the phrase ''any other person whom the registered person financially supports, directly or indirectly, to a material extent'' due to ambiguity and being outside of the conventional definition of ''immediate family.'' NASAA suggested revising the phrase to require that any person who the registered person financially supports must also reside in the same household as the registered person.

In the proposed rule change, FINRA revised the relevant phrase in the proposed definition of ''immediate family'' to state ''and any other person who resides in the same household as the registered person and the registered person financially supports, directly or indirectly, to a material extent.'' For example, the phrase as revised would apply to a foster child who resides with and is financially supported by the registered person but who has not yet been legally adopted. The incorporation of the requirement that the other person reside in the same household as the registered person and receive material financial support from the registered person focuses the scope of the proposed ''immediate family'' definition.

For purposes of the proposed definition of ''immediate family,'' FSI suggested that a ''cousin'' mean only first cousins rather than second or more distant cousins. FINRA would interpret cousin in the ''immediate family'' definition to mean first cousins and not second or more distant cousins.

Scope

Kendrick questioned how the *Notice* 19–36 Proposal would apply to attorneys who hold securities licenses. The proposed rule change would apply to registered persons who have ''customers'' as defined by the proposed rule change (*i.e.,* any customer that has, or in the previous six months had, a securities account assigned to the registered person at any member firm).

A registered person also being licensed in another capacity (*e.g.,* a state-licensed attorney) does not exempt the registered person from compliance with the proposed rule change. The proposed rule change would be triggered when the registered person is named a customer's beneficiary or receives a bequest from a customer or is named a customer's executor, trustee or holder of a power of attorney or similar position for a trustee. The proposed rule change would not be triggered when an individual who is not a ''customer'' so names a registered person. For example, a person may be registered with a member firm and hold a state law license. In this example, the proposed rule change would not be triggered when an individual who is not a ''customer'' under the rule names the registered person as the executor of the individual's estate.

SIFMA requested clarification that the *Notice* 19–36 Proposal applies only when the registered person services the account or is the broker of record for the account and does not apply when a registered person is named as a beneficiary or to a position of trust for any client of the member firm. The proposed rule change would apply to registered persons who have ''customers'' as defined by the proposed rule change. The proposed rule change would not be triggered when an individual who is not a ''customer'' (*e.g.,* a client of the member firm who has not had a securities account assigned to the registered person in the last six months) so names a registered person.

Because some member firms have trust lines of business, SIFMA requested clarification that the *Notice* 19–36 Proposal is not intended to cover member firms acting in their capacity as a trustee in their trust lines of business. SIFMA stated its assumption that FINRA is focusing on individual registered persons who would be put in a position of trust in their personal capacity, not as a result of a member firm's authorized and approved business capacity.

A registered person may have a role or provide assistance where a member firm or affiliated entity offers a trust line of business. However, FINRA understands that a customer typically names the member firm or an affiliated entity—not a registered person—as trustee when the member firm or its affiliated entity offers a trust line of business. The proposed rule change would not apply where the customer names either the member firm or an affiliated entity as his or her trustee. However, the proposed rule change would apply where the customer names the individual registered person as his or her trustee.

In addition, a dually-registered representative may hold a power of attorney for a customer's discretionary investment advisory account. This power of attorney is intended to allow the investment adviser representative to manage the investment advisory account. The proposed rule change is not intended to address or impact a dually-registered representative holding a power of attorney or other similar instrument in order to manage a customer's investment advisory account.

NASAA stated that member firms should be required to advise customers in the account application of the applicable restrictions on the registered person being named a beneficiary or holding a position of trust for the customer. While a member firm may include information about the applicable restrictions in the account application, FINRA believes that a conversation or another communication between the customer and the registered person or another associated person of the member firm can also be effective in addressing the potential conflicts of interest, restrictions imposed by the proposed rule change and any additional restrictions imposed by the member firm's procedures.

Naming Other Persons

Singer suggested that proposed Supplementary Material .06 applying the proposed rule change where the registered person instructs or asks a customer to name a third-party as the customer's beneficiary may not be sufficiently broad because: (1) The registered person could suggest or imply that the customer should name the third-party without instructing or asking; or (2) the third-party (*e.g.,* the registered person's spouse) could communicate with the customer to avoid triggering the rule.

Proposed Supplementary Material .06 is intended to cover situations where the registered person attempts to circumvent the proposed rule change's restrictions. In these situations, the registered person may communicate with the customer in a manner where the registered person will seek to deny instructing or asking the customer to act and instead argue that the customer acted on his own volition (*e.g.,* by having a third-party communicate with the customer). FINRA would interpret proposed Supplementary Material .06 broadly to cover these situations. For example, FINRA would interpret proposed Supplementary Material .06 to apply to situations where: (1) The registered person suggests or implies that the customer name another person, such as the registered person's spouse or child, to be a beneficiary of the customer's estate or to receive a bequest from the customer's estate; or (2) the registered person's spouse or another third party acts on behalf of the registered person to communicate with the customer in an effort to avoid triggering the proposed rule change's requirements.

Pre-Existing Beneficiary Status and Positions of Trust

SIFMA asked for clarification about how the *Notice* 19–36 Proposal would apply to beneficiary designations and positions of trust that are currently in place. SIFMA stated that while many member firms currently have policies in this area, it would be challenging and time-consuming to conduct a full-scale retroactive review of all accounts across an organization to determine whether the arrangements currently in place are consistent with the proposed requirements. NASAA, on the other hand, does not support a ''grandfathering'' clause for beneficiary designations and positions of trust that are currently in place. Moreover, NASAA suggested that member firms should ask about the existence of any pre-existing position during the hiring process so that the relationship can be screened before the individual associates with the member firm.

Many, but not all, member firms currently have policies and procedures in place to address potential conflicts by prohibiting or imposing limitations on being named as a beneficiary or to a position of trust when there is not a familial relationship. Accordingly, member firms may have approved arrangements under the policies and procedures in place prior to the proposed rule change becoming effective. The proposed rule would apply if the registered person is named a beneficiary or receives a bequest from a customer's estate after the effective date of the rule. For the non-beneficiary positions, the proposed rule would apply to positions that the registered person was named to prior to the rule becoming effective only if the initiation of the broker-customer relationship was after the effective date of the proposed rule.

For example, a registered representative was named a beneficiary of a customer who is not an immediate family member in 2018, consistent with the firm's procedures, and the customer passes away after the proposed rule change becomes effective. The

registered representative is notified by the executor that he is to receive a bequest of $5,000 from the customer's estate. Because the bequest would be received after the proposed rule change is effective, the registered representative would be required to provide written notice to the member firm and the member firm would be required to perform a reasonable assessment and determination of whether to approve or disapprove the registered representative receiving the bequest.

If a registered person was named as a beneficiary or to a position of trust prior to the registered person's association with the member firm, proposed Supplementary Material .04 would require the registered person, within 30 calendar days of becoming so associated, to provide notice to and receive approval from the member consistent with the rule to maintain the beneficiary status or position of trust. If a registered person was named to a position of trust prior to the proposed rule change becoming effective, proposed Supplementary Material .04 would apply if the registered person moved to a new member firm after the proposed rule change became effective.

For example, a registered representative was named a trustee by a customer who is not an immediate family member in 2018, consistent with Member Firm A's procedures. Notice to and approval by Member Firm A is not required in order for the registered representative to continue serving as the customer's trustee after the proposed rule change becomes effective. However, if the registered representative left Member Firm A to become associated with Member Firm B after the proposed rule change became effective, proposed Supplementary Material .04 would apply and the registered representative would need to provide notice to and receive approval from Member Firm B in order to continue serving in the position.

Application Beyond Broker-Dealers

Singer stated that ''FINRA's best intentions can only be extended so far'' and that state and federal laws may need to be revised to address the consequences of financial professionals taking advantage of elderly or vulnerable customers. FINRA welcomes the opportunity to work with other regulators to address misconduct in this area.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2020–020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2020–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2020–020 and should be submitted on or before July 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–14743 Filed 7–8–20; 8:45 am]

BILLING CODE 8011–01–P

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–495, OMB Control No. 3235–0553]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F St. NE, Washington, DC 20549–2736.

Extension:
Rule 19b–7 and Form 19b–7

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''SEC'' or ''Commission'') is soliciting comments on the existing collection of information provided for in Rule 19b–7 (17 CFR 240.19b–7) and Form 19b–7—Filings with respect to proposed rule changes submitted pursuant to Section 19b(7) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The Exchange Act provides a framework for self-regulation under which various entities involved in the securities business, including national securities exchanges and national securities associations (collectively, self-regulatory organizations or ''SROs''), have primary responsibility for regulating their members or participants. The role of the Commission in this framework is primarily one of oversight; the Exchange Act charges the Commission with supervising the SROs and assuring that each complies with and advances the policies of the Exchange Act.

The Exchange Act was amended by the Commodity Futures Modernization

Act of 2000 (''CFMA''). Prior to the CFMA, federal law did not allow the trading of futures on individual stocks or on narrow-based stock indexes (collectively, ''security futures products''). The CFMA removed this restriction and provided that trading in security futures products would be regulated jointly by the Commission and the Commodity Futures Trading Commission (''CFTC'').

The Exchange Act requires all SROs to submit to the SEC any proposals to amend, add, or delete any of their rules. Certain entities (Security Futures Product Exchanges) would be notice registered national securities exchanges only because they trade security futures products. Similarly, certain entities (Limited Purpose National Securities Associations) would be limited purpose national securities associations only because their members trade security futures products. The Exchange Act, as amended by the CFMA, established a procedure for Security Futures Product Exchanges and Limited Purpose National Securities Associations to provide notice of proposed rule changes relating to certain matters.[1] Rule 19b–7 and Form 19b–7 implemented this procedure. Effective April 28, 2008, the SEC amended Rule 19b–7 and Form 19b–7 to require that Form 19b–7 be submitted electronically.[2]

The collection of information is designed to provide the Commission with the information necessary to determine, as required by the Exchange Act, whether the proposed rule change is consistent with the Exchange Act and the rules thereunder. The information is used to determine if the proposed rule change should remain in effect or abrogated.

The respondents to the collection of information are SROs. Three respondents file an average total of approximately 2 responses per year.[3] Each response takes approximately 12.5 hours to complete and each amendment takes approximately 3 hours to complete, which correspond to an estimated annual response burden of 25 hours ((2 rule change proposals × 12.5 hours) + (0 amendments[4] × 3 hours)). The average internal cost of compliance per response is $5,050 (11.5 legal hours multiplied by an average hourly rate of $420[5] plus 1 hour of paralegal work multiplied by an average hourly rate of $220[6]). The total resulting internal cost of compliance for a respondent is $10,100 per year (2 responses x $5,050 per response).

In addition to filing its proposed rule changes and any amendments thereto with the Commission, a respondent is also required to post each of its proposals and any amendments thereto, on its website. This process takes approximately 0.5 hours to complete per proposal and 0.5 hours per amendment. Thus, for approximately 2 responses and 0 amendments,[7] the total annual reporting burden on a respondent to post these on its website is 1 hour ((2 proposals per year × 0.5 hours per filing) + (0 amendments × 0.5 hours)). Further, a respondent is required to update its rulebook, which it maintains on its website, to reflect the changes that it makes in each proposal and any amendment thereto. Thus, for all filings that were not withdrawn by a respondent (0 withdrawn filings in calendar years 2017–2019) or disapproved by the Commission (0 disapproved filings in calendar years 2017–2019), a respondent was required to update its online rulebook to reflect the effectiveness of 2 filings on average, each of which takes approximately 4 hours to complete per proposal. Thus, the total annual reporting burden for updating an online rulebook is 8 hours ((2 filings per year − 0 withdrawn filings − 0 disapproved filings) × 4 hours).

Compliance with Rule 19b–7 is mandatory. Information received in response to Rule 19b–7 is not kept confidential; the information collected is public information.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 2, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–14747 Filed 7–8–20; 8:45 am]

BILLING CODE 8011–01–P

[1] These matters are higher margin levels, fraud or manipulation, recordkeeping, reporting, listing standards, or decimal pricing for security futures products; sales practices for security futures products for persons who effect transactions in security futures products; or rules effectuating the obligation of Security Futures Product Exchanges and Limited Purpose National Securities Associations to enforce the securities laws. *See* 15 U.S.C. 78s(b)(7)(A).

[2] *See* Securities Exchange Act Release No. 57526 (March 19, 2008), 73 FR 16179 (March 27, 2008).

[3] There are currently four Security Futures Product Exchanges and one Limited Purpose National Securities Association, the National Futures Authority. However, two Security Futures Product Exchanges currently do not trade security futures products and, as a result, have not been filing proposed rule changes. Therefore, there are currently three respondents to Form 19b–7.

[4] SEC staff notes that even though no amendments were received in the previous three years and that staff does not anticipate the receipt of any amendments, calculation of amendments is a separate step in the calculation of the PRA burden and it is possible that amendments are filed in the future. Therefore, instead of removing the calculation altogether, staff has shown the calculation as anticipating zero amendments.

[5] The $420 per hour figure for an Attorney is from SIFMA's *Management & Professional Earnings in the Securities Industry 2013,* modified by Commission staff to account for inflation and an 1800-hour work-year and then multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

[6] The $220 per hour figure for a Paralegal is from SIFMA's *Management & Professional Earnings in the Securities Industry 2013,* modified by Commission staff to account for inflation and an 1800-hour work-year and then multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

[7] *See supra* note 4.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89216; File No. SR–LTSE–2020–10]

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Designation of Members for Mandatory Disaster Recovery Testing Pursuant to Regulation SCI for Calendar Year 2020

July 2, 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 22, 2020, Long-Term Stock Exchange, Inc.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''LTSE'' or 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

LTSE proposes a rule change to amend how the Exchange will designate certain Members to participate in mandatory disaster recovery testing pursuant to Regulation SCI and LTSE Rule 2.250 for calendar year 2020.

The text of the proposed rule change is available at the Exchange's website at *https://longtermstockexchange.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 on the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend LTSE Rule 2.250 to revise how it will designate certain Members to participate in mandatory disaster recovery testing pursuant to Regulation SCI and Rule 2.250 for calendar year 2020.

Regulation SCI requires LTSE, as an SCI entity, to maintain business continuity and disaster recovery plans that provide for resilient and geographically diverse backup and recovery capabilities that are reasonably designed to achieve two-hour resumption of critical SCI systems and next business day resumption of other SCI systems following a wide-scale disruption.[3]

Regulation SCI and LTSE Rule 2.250 also require LTSE to designate certain Members[4] to participate in business continuity and disaster recovery testing in a manner specified by LTSE and at a frequency of not less than once every 12 months.[5] Such testing ordinarily is part of an annual industry-wide test, which is next scheduled for October 24, 2020.

LTSE Rule 2.250 governs mandatory participation in testing of LTSE's backup systems, and states that LTSE will designate Members that account for a specified percentage of executed volume on LTSE, measured on quarterly basis, as required to connect to LTSE's backup systems and participate in functional and performance testing of such system.[6] Rule 2.250 further provides that if a Member has not previously been designated as meeting the volume criteria, such Member will have until the next calendar quarter before such requirements are applicable.[7] LTSE currently is not operational and is not expecting to have two quarters of trading data on which to base its Member designation prior to the October 24, 2020 test. Thus, as currently written, Rule 2.250 would not permit the Exchange to designate any Members to participate in the industry-wide test for 2020 because no Members will have the requisite trading volume on LTSE upon which a designation can be made.

To address the unique circumstances for disaster recovery testing in 2020, the year in which LTSE will become operational, the Exchange proposes to add new paragraph (d), which would provide that for calendar year 2020, notwithstanding paragraphs (b) and (c), which assign the Exchange responsibility of ''identifying Members that account for a meaningful percentage of the Exchange's overall volume,'' the Exchange will instead designate at least three Members who have a meaningful percentage of trading volumes in NMS Stocks across the other equity exchanges. This would allow the Exchange to identify Members for industry-wide disaster recovery testing in the absence of the metrics that will be used in the ordinary course to designate such firms.

LTSE believes that designating at least three Members who are likely already to be participating in the industry-wide test by virtue of their trading activities on other exchanges is likely to reduce the burdens associated with being designated for disaster recovery testing by LTSE in absence of significant trading volumes on the Exchange. Moreover, to reduce the burdens on such Members, the Exchange proposes, where possible, to designate firms that have already established connections to its backup systems. This is intended to address the ''notice'' requirements in the existing Rule 2.250.[8] The Exchange believes that designating three or more such firms is reasonably designed to provide the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans.

LTSE intends to notify Members of their designation for disaster recovery testing no later than July 10, 2020. With respect to industry-wide disaster recovery testing in 2021 and beyond, the Exchange will issue one or more regulatory circulars establishing the standards to be used for determining which Members contribute a meaningful percentage of the Exchange's overall volume and thus are required to participate in functional and performance testing. Such standards will be informed by the Exchange's actual market and trading data, in accordance with LTSE Rule 2.250(a)–(c).

2. *Statutory Basis*

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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.

The Exchange believes that its proposed methodology of designating Members who have meaningful levels of trading activity on other exchanges and

[3] *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014).

[4] The term ''Member'' refers to any registered broker or dealer that has been admitted to membership in the Exchange. A Member will have the status of a Member of the Exchange as that term is defined in Section 3(a)(3) of the Act. Membership may be granted to a sole proprietor, partnership, corporation, limited liability company, or other organization that is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange. *See* LTSE Rule 1.160(w).

[5] *See* LTSE Rule 2.250(a), (b).

[6] *See* LTSE Rule 2.250(a), (c).

[7] *See* LTSE Rule 2.250(c).

[8] *See id.*

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

who have established connectivity to LTSE's backup systems is consistent with the protection of investors and the public interest. The Exchange believes that the proposed rule change will ensure that the Members necessary to ensure the maintenance of fair and orderly markets in the event of the activation of LTSE's disaster recovery plans have been designated consistent with LTSE Rule 2.250 and Rule 1004 of Regulation SCI. Specifically, the proposal will address the unique circumstances of industry-wide testing taking place within a short time of when the Exchange commences operations. The Exchange believes that the proposed rule change balances the objectives of having Members participate in industry-wide disaster recovery testing, including LTSE's backup systems, and the burdens on such Members who, at the time of designation, will not have traded on LTSE.

As set forth in the SCI Adopting Release, ''SROs have the authority, and legal responsibility, under Section 6 of the Exchange Act, to adopt and enforce rules (including rules to comply with Regulation SCI's requirements relating to BC/DR testing) applicable to their members or participants that are designed to, among other things, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.'' [11] The Exchange believes that this proposal is consistent with such authority and legal responsibility.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change is designed to promote fair competition among brokers and dealers and exchanges by ensuring the Exchange can designate Members to participate in mandatory disaster recovery testing pursuant to Regulation SCI for calendar year 2020. The Exchange believes that designating three or more such firms is reasonably designed to provide the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans, thereby promoting intermarket competition between exchanges in furtherance of the principles of Section 11A(a)(1) of the Act.[12]

With respect to intramarket competition, the proposed rule change seeks to reduce the burdens on Members by only designating Members who are likely already participating in the industry-wide test by virtue of their trading activities on other exchanges. Under the proposed rule change, the Exchange will designate firms that have already established connections to the Exchange's backup systems. Consequently, LTSE does not believe that the proposed rule change would impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor 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)(iii) of the Act [13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6) [15] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay to permit the Exchange to notify Members of their designation earlier than would be possible without a waiver of the operative delay. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it would provide designated members additional time to receive notice of their designation, and thus prepare for disaster recovery testing with the Exchange's backup systems. Accordingly, the Commission waives the 30-day operative delay and designates the proposal operative upon filing.[17]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings 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–LTSE–2020–10 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–LTSE–2020–10. 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

[11] *See supra* note 3, at 72350.

[12] 15 U.S.C. 78k–1(a)(1).

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange 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.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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 LTSE and on its internet website at *https://longtermstockexchange.com/.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–LTSE–2020–10 and should be submitted on or before July 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–14741 Filed 7–8–20; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–505, OMB Control No. 3235–0562]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 17d–1

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Section 17(d) (15 U.S.C. 80a–17(d)) of the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) (the ''Act'') prohibits first- and second-tier affiliates of a fund, the fund's principal underwriters, and affiliated persons of the fund's principal underwriters, acting as principal, to effect any transaction in which the fund or a company controlled by the fund is a joint or a joint and several participant in contravention of the Commission's rules. Rule 17d–1 (17 CFR 270.17d–1) prohibits an affiliated person of or principal underwriter for any fund (a ''first-tier affiliate''), or any affiliated person of such person or underwriter (a ''second-tier affiliate''), acting as principal, from participating in or effecting any transaction in connection with a joint enterprise or other joint arrangement in which the fund is a participant, unless prior to entering into the enterprise or arrangement ''an application regarding [the transaction] has been filed with the Commission and has been granted by an order.'' In reviewing the proposed affiliated transaction, the rule provides that the Commission will consider whether the proposal is (i) consistent with the provisions, policies, and purposes of the Act, and (ii) on a basis different from or less advantageous than that of other participants in determining whether to grant an exemptive application for a proposed joint enterprise, joint arrangement, or profit-sharing plan.

Rule 17d–1 also contains a number of exceptions to the requirement that a fund must obtain Commission approval prior to entering into joint transactions or arrangements with affiliates. For example, funds do not have to obtain Commission approval for certain employee compensation plans, certain tax-deferred employee benefit plans, certain transactions involving small business investment companies, the receipt of securities or cash by certain affiliates pursuant to a plan of reorganization, certain arrangements regarding liability insurance policies and transactions with ''portfolio affiliates'' (companies that are affiliated with the fund solely as a result of the fund (or an affiliated fund) controlling them or owning more than five percent of their voting securities) so long as certain other affiliated persons of the fund (*e.g.,* the fund's adviser, persons controlling the fund, and persons under common control with the fund) are not parties to the transaction and do not have a ''financial interest'' in a party to the transaction. The rule excludes from the definition of ''financial interest'' any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material, as long as the board records the basis for its finding in their meeting minutes.

Thus, the rule contains two filing and recordkeeping requirements that constitute collections of information. First, rule 17d–1 requires funds that wish to engage in a joint transaction or arrangement with affiliates to meet the procedural requirements for obtaining exemptive relief from the rule's prohibition on joint transactions or arrangements involving first- or second-tier affiliates. Second, rule 17d–1 permits a portfolio affiliate to enter into a joint transaction or arrangement with the fund if a prohibited participant has a financial interest that the fund's board determines is not material and records the basis for this finding in their meeting minutes. These requirements of rule 17d–1 are designed to prevent fund insiders from managing funds for their own benefit, rather than for the benefit of the funds' shareholders.

Based on an analysis of past filings, Commission staff estimates that 23 funds file applications under section 17(d) and rule 17d–1 per year. The staff understands that funds that file an application generally obtain assistance from outside counsel to prepare the application. The cost burden of using outside counsel is discussed below. The Commission staff estimates that each applicant will spend an average of 154 hours to comply with the Commission's applications process. The Commission staff therefore estimates the annual burden hours per year for all funds under rule 17d–1's application process to be 3,542 hours at a cost of $1,528,120.[1] The Commission, therefore, requests authorization to increase the inventory of total burden hours per year for all funds under rule 17d–1 from the current authorized burden of 2,772 hours to 3,542 hours. The increase is due to an increase in the number of funds that filed applications for exemptions under rule 17d–1.

As noted above, the Commission staff understands that funds that file an application under rule 17d–1 generally use outside counsel to assist in preparing the application. The staff estimates that, on average, funds spend

[1] The Commission staff estimates that a senior executive, such as the fund's chief compliance officer, will spend an average of 62 hours and a mid-level compliance attorney will spend an average of 92 hours to comply with this collection of information: 62 hours + 92 hours = 154 hours. 23 funds × 154 burden hours = 3,542 burden hours. The Commission staff estimate that the chief compliance officer is paid $530 per hour and the compliance attorney is paid $365 per hour. ($530 per hour × 62 hours) + ($365 per hour × 92 hours) = $66,440 per fund. $66,440 × 23 funds = $1,528,120. The $530 and $365 per hour figures are based on salary information compiled by SIFMA's Management & Professional Earnings in the Securities Industry, 2013. The Commission staff has modified SIFMA's information to account for an 1800-hour work year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

an additional $93,131 for outside legal services in connection with seeking Commission approval of affiliated joint transactions. Thus, the staff estimates that the total annual cost burden imposed by the exemptive application requirements of rule 17d–1 is $2,142,013.[2]

We estimate that funds currently do not rely on the exemption from the term ''financial interest'' with respect to any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material. Accordingly, we estimate that annually there will be no transactions under rule 17d–1 that will result in this aspect of the collection of information.

Based on these calculations, the total annual hour burden is estimated to be 3,542 hours and the total annual cost burden is estimated to be $2,142,013.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with these collections of information requirement is necessary to obtain the benefit of relying on rule 17d–1. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: July 2, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–14750 Filed 7–8–20; 8:45 am]

BILLING CODE 8011–01–P

[2] The estimate is based on the following calculation: $93,131 × 23 funds = $2,142,013.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89217; File No. SR–CboeBZX–2020–029]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the JPMorgan Large Cap Growth ETF Under Rule 14.11(k), Managed Portfolio Shares

July 2, 2020.

I. Introduction

On March 25, 2020, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] a proposed rule change to list and trade shares of the JPMorgan Large Cap Growth ETF under Rule 14.11(k), Managed Portfolio Shares. The proposed rule change was published for comment in the **Federal Register** on Apri1 9, 2020.[4] On April 29, 2020, the Exchange filed Amendment No. 1 to the proposed rule change.[5] On May 15, 2020, pursuant to Section 19(b)(2) of the Act,[6] 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 rule change.[7] The Commission has received no comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 88551 (April 3, 2020), 85 FR 19971 (''Notice'').

[5] In Amendment No. 1, the Exchange added the word ''each'' to clarify that the Adviser has implemented and will maintain a ''fire wall'' with respect to *each* affiliate broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio and Creation Basket (as defined below). Because the change in Amendment No. 1 clarifies a statement in the proposal and does not materially alter the substance of the proposed rule change or raise any novel regulatory issues, Amendment No. 1 is not subject to notice and comment. Amendment No. 1 is available on the Commission's website at *https://www.sec.gov/comments/sr-cboebzx-2020-029/srcboebzx2020029-7135317-216172.pdf.*

[6] 15 U.S.C. 78s(b)(2).

[7] *See* Securities Exchange Act Release No. 88888, 85 FR 31016 (May 21, 2020). The Commission designated July 8, 2020, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1 [8]

The Exchange proposes to list and trade shares of the JPMorgan Large Cap Growth ETF (''Fund'') under BZX Rule 14.11(k), which governs the listing and trading of any series of Managed Portfolio Shares on the Exchange.[9] The shares of the Fund (''Shares'') will be issued by J.P. Morgan Exchange-Traded Fund Trust (''Trust''), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[10] The investment adviser to the Trust will be J.P. Morgan Investment Management Inc. (the ''Adviser''). JPMorgan Distribution Services, Inc. will serve as the distributor of the Fund's Shares.

A. Description of the Fund

The Exchange states that the Fund's holdings will conform to the permissible investments as set forth in the Exemptive Application and Exemptive Order and the holdings will be consistent with all requirements in the Exemptive Application and

[8] For more information regarding the Fund and the Shares, *see* Notice, *supra* note 4.

[9] As defined in BZX Rule 14.11(k)(3)(A), the term ''Managed Portfolio Share'' means a security that (a) represents an interest in an investment company (''Investment Company'') registered under the Investment Company Act of 1940 (''1940 Act'') organized as an open-end management investment company, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a creation unit, or multiples thereof, in return for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value and delivered to the Authorized Participant (as defined in the Investment Company's Form N–1A filed with the Commission) through a confidential account; (c) when aggregated into a redemption unit, or multiples thereof, may be redeemed for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value delivered to the confidential account for the benefit of the Authorized Participant; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.

[10] The Trust is registered under the 1940 Act. On February 3, 2020, the Trust filed a registration statement on Form N–1A relating to the Fund (File No. 811–22903) (''Registration Statement''). The Trust has submitted an application for exemptive relief (''Exemptive Application'') (File No. 812–15093). The Exchange states that the Exemptive Application incorporates by reference the terms and conditions of the exemptive relief granted to Precidian ETFs Trust, et al. *See* Investment Company Act Release No. 33477, May 20, 2019 (''Exemptive Order''). The Exchange states that it expects any exemptive relief granted to the Trust to be substantively identical to the Exemptive Order. The Exchange represents that the Fund will not be listed or traded on the Exchange until it receives all necessary exemptive relief and its Registration Statement is effective.

Exemptive Order.[11] According to the Exchange, the Fund will seek long-term capital appreciation. The Exchange states that, typically, in implementing its strategy, the Fund will invest in common stocks of companies with a history of above-average growth or companies expected to enter periods of above-average growth.

B. Investment Restrictions

The Fund will not purchase any securities that are illiquid investments at the time of purchase and the Fund's holdings will be consistent with all requirements described in the Exemptive Application and Exemptive Order.

The Shares will conform to the initial and continued listing criteria under BZX Rule 14.11(k). The Fund's holdings will be limited to and consistent with what is permissible under the Exemptive Order.

The Fund's investments will be consistent with its investment objective and will not be used to enhance leverage.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act and rules and regulations thereunder applicable to a national securities exchange.[12] 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,[13] which requires, among other things, that the Exchange's rules be 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.

The Commission believes that the proposal is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading in the Shares when a reasonable degree of certain pricing transparency cannot be assured. As such, the Commission believes the proposal is reasonably designed to maintain a fair and orderly market for trading the Shares. The Commission also finds that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act, which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities.

Specifically, the Commission notes that the Exchange has obtained a representation from the issuer that the net asset value per Share of the Fund will be calculated daily and will be made available to all market participants at the same time.[14] Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Quotation and last sale information for the Shares will be available via the Consolidated Tape Association high-speed line. In addition, the Verified Intraday Indicative Value (''VIIV'')[15] will be widely disseminated by the Reporting Authority and/or one or more major market data vendors in one-second intervals during Regular Trading Hours, and must be disseminated to all market participants at the same time.[16] Moreover, the Fund's website will include a form of the prospectus and additional data relating to net asset value and other applicable quantitative information for the Fund, including any information regarding premiums/discounts that ETFs registered under the 1940 Act are required to provide or that are otherwise required under the Exemptive Order. Such website and information will be publicly available at no charge.

The Commission also notes that the Exchange's rules regarding trading halts help to ensure the maintenance of fair and orderly markets for the Shares. Specifically, pursuant to its rules, the Exchange may consider all relevant factors in exercising its discretion to halt trading in the Shares, and will halt trading in the Shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, including (1) the extent to which trading is not occurring in the securities and/or the financial instruments composing the portfolio; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[17] Trading in the Shares also will be subject to BZX Rule 14.11(k)(4)(B)(iii)(b), which sets forth additional circumstances under which trading in the Shares will be halted.

The Commission also believes that the proposal is reasonably designed to help prevent fraudulent and manipulative acts and practices. The Exchange represents that it has a general policy prohibiting the distribution of material, non-public information by its employees. The Exchange states that the Adviser is not registered as a broker-dealer, but is affiliated with multiple broker-dealers and has implemented and will maintain a ''fire wall'' with respect to each such broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the Fund's portfolio and Creation Basket.[18] Further, the Commission notes that any person related to the Fund's investment adviser or to the Trust who makes decisions pertaining to the Fund's portfolio composition or has access to information regarding the Fund's portfolio composition or changes thereto or the Creation Basket must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio or changes thereto and the Creation Basket.[19] In addition, any person or entity, including an AP

[11] Pursuant to the Exemptive Order, the permissible investments include only the following instruments that trade on a U.S. exchange contemporaneously with the Shares: Exchange-traded funds (''ETFs'') and exchange-traded notes, common stocks, preferred stocks, American depositary receipts, real estate investment trusts, commodity pools, metals trusts, currency trusts, and futures for which the reference asset the Fund may invest in directly or, in the case of an index future, based on an index of a type of asset that the Fund could invest in directly; as well as cash and cash equivalents (short-term U.S. Treasury securities, government money market funds and repurchase agreements).

[12] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f(b)(5).

[14] *See* BZX Rule 14.11(k)(4)(A)(ii).

[15] BZX Rule 14.11(k)(3)(B) defines ''Verified Intraday Indicative Value'' as the indicative value of a Managed Portfolio Share based on all of the holdings of a series of Managed Portfolio Shares as of the close of business on the prior business day and, for corporate actions, based on the applicable holdings as of the opening of business on the current business day, priced and disseminated in one second intervals during Regular Trading Hours (as defined in BZX Rule 1.5(w)) by the Reporting Authority (as defined in BZX Rule 14.11(k)(3)(H)).

[16] *See* BZX Rule 14.11(k)(4)(B)(i).

[17] *See* BZX Rule 14.11(k)(4)(B)(iii)(a).

[18] *See* BZX Rule 14.11(k)(3)(E).

[19] *See* BZX Rule 14.11(k)(2)(D). The Exchange represents that any person related to the Adviser or the Trust who makes decisions pertaining to the Fund's portfolio composition or that has access to information regarding the Fund's portfolio or changes thereto or the Creation Basket will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio or changes thereto and the Creation Basket.

Representative,[20] custodian, Reporting Authority, distributor, or administrator, who has access to information regarding the Fund's portfolio composition or changes thereto or its Creation Basket, must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Fund portfolio or changes thereto or the Creation Basket.[21] Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity must erect and maintain a ''fire wall'' between the person or entity and the broker-dealer with respect to access to information concerning the composition of and/or changes to such Fund's portfolio or Creation Basket.[22] Finally, the Exchange represents that trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Portfolio Shares,[23] and that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Moreover, prior to the commencement of trading, the Exchange will inform its members in an Information Circular (''Circular'') of the special characteristics and risks associated with trading the Shares.[24]

In support of this proposal, the Exchange represents that:

(1) The Shares will conform to the initial and continued listing criteria under BZX Rule 14.11(k).

(2) A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange.

(3) The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed, and may obtain trading information, regarding trading in the Shares, and the underlying exchange-traded instruments with other markets and other entities that are members of the ISG. In addition, the Exchange may obtain information regarding trading in the Shares and the underlying exchange-traded instruments from markets and other entities with which the Exchange has in place a comprehensive surveillance sharing agreement.

(4) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions in which the Shares trade.

(5) For initial and continued listing, the Fund will be in compliance with Rule 10A–3 under the Act.[25]

(6) The Fund's holdings will conform to the permissible investments as set forth in the Exemptive Application and Exemptive Order, and investments made by the Fund will be consistent with all requirements set forth in the Exemptive Application and Exemptive Order. The Fund's investments will be consistent with its investment objective and will not be used to enhance leverage.

The Exchange represents that all statements and representations made in the filing regarding: (1) The description of the portfolio or reference assets; (2) limitations on portfolio holdings or reference assets; (3) dissemination and availability of the VIIV, reference assets, and intraday indicative values; and (4) the applicability of Exchange rules constitute continued listing requirements for listing the Shares on the Exchange. In addition, the Exchange represents that the issuer will advise the Exchange of any failure by the Fund to comply with the continued listing requirements and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under BZX Rule 14.12.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[26] and Section 11A(a)(1)(C)(iii) of the Act[27] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[28] that the proposed rule change (SR-CboeBZX–2020–029), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–14742 Filed 7–8–20; 8:45 am]

BILLING CODE 8011–01–P

[20] *See* BZX Rule 14.11(k)(3)(C).

[21] *See* BZX Rule 14.11(k)(2)(E).

[22] *See id.* The Exchange represents that any person or entity who has access to information regarding the Fund's portfolio composition or changes thereto or the Creation Basket will be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the portfolio composition or changes thereto or the Creation Basket.

[23] *See* BZX Rule 14.11(k)(2)(C), which requires, as part of the surveillance procedures for Managed Portfolio Shares, the Fund's investment adviser to, upon request by the Exchange or the Financial Industry Regulatory Authority (''FINRA''), on behalf of the Exchange, make available to the Exchange or FINRA the daily portfolio holdings of each series of Managed Portfolio Shares.

[24] The Exchange represents that the Circular will discuss the following: (1) Procedures for purchases and redemptions of Shares; (2) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the VIIV is disseminated; (4) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) trading information; and (6) that the portfolio holdings will be disclosed within at least 60 days following the end of every fiscal quarter.

[25] *See* 17 CFR 240.10A–3.

[26] 15 U.S.C. 78f(b)(5).

[27] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[28] 15 U.S.C. 78s(b)(1).

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–259, OMB Control No. 3235–0269]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 17f–5

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l–3520), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') requests for extension of the previously approved collections of information discussed below.

Rule 17f–5 (17 CFR 270.17f–5) under the Investment Company Act of 1940 [15 U.S.C. 80a] (the ''Act'') governs the custody of the assets of registered management investment companies (''funds'') with custodians outside the United States. Under rule 17f–5, a fund or its foreign custody manager (as delegated by the fund's board) may maintain the fund's foreign assets in the care of an eligible fund custodian under certain conditions. If the fund's board delegates to a foreign custody manager authority to place foreign assets, the fund's board must find that it is reasonable to rely on each delegate the board selects to act as the fund's foreign custody manager. The delegate must

agree to provide written reports that notify the board when the fund's assets are placed with a foreign custodian and when any material change occurs in the fund's custody arrangements. The delegate must agree to exercise reasonable care, prudence, and diligence, or to adhere to a higher standard of care. When the foreign custody manager selects an eligible foreign custodian, it must determine that the fund's assets will be subject to reasonable care if maintained with that custodian, and that the written contract that governs each custody arrangement will provide reasonable care for fund assets. The contract must contain certain specified provisions or others that provide at least equivalent care. The foreign custody manager must establish a system to monitor the performance of the contract and the appropriateness of continuing to maintain assets with the eligible foreign custodian.

The collection of information requirements in rule 17f–5 are intended to provide protection for fund assets maintained with a foreign bank custodian whose use is not authorized by statutory provisions that govern fund custody arrangements,[1] and that is not subject to regulation and examination by U.S. regulators. The requirement that the fund board determine that it is reasonable to rely on each delegate is intended to ensure that the board carefully considers each delegate's qualifications to perform its responsibilities. The requirement that the delegate provide written reports to the board is intended to ensure that the delegate notifies the board of important developments concerning custody arrangements so that the board may exercise effective oversight. The requirement that the delegate agree to exercise reasonable care is intended to provide assurances to the fund that the delegate will properly perform its duties.

The requirements that the foreign custody manager determine that fund assets will be subject to reasonable care with the eligible foreign custodian and under the custody contract, and that each contract contain specified provisions or equivalent provisions, are intended to ensure that the delegate has evaluated the level of care provided by the custodian, that it weighs the adequacy of contractual provisions, and that fund assets are protected by minimal contractual safeguards. The requirement that the foreign custody manager establish a monitoring system is intended to ensure that the manager periodically reviews each custody arrangement and takes appropriate action if developing custody risks may threaten fund assets.[2]

Commission staff estimates that each year, approximately 90 registrants [3] could be required to make an average of one response per registrant under rule 17f–5, requiring approximately 2.5 hours of board of director time per response, to make the necessary findings concerning foreign custody managers. The total annual burden associated with these requirements of the rule is up to approximately 225 hours (90 registrants × 2.5 hours per registrant). The staff further estimates that during each year, approximately 15 global custodians [4] are required to make an average of 4 responses per custodian concerning the use of foreign custodians other than depositories. The staff estimates that each response will take approximately 270 hours, requiring approximately 1,080 total hours annually per custodian (270 hours × 4 responses per custodian). The total annual burden associated with these requirements of the rule is approximately 16,200 hours (15 global custodians × 1,080 hours per custodian). Therefore, the total annual burden of all collection of information requirements of rule 17f–5 is estimated to be up to 16,425 hours (225 + 16,200). The total annual cost of burden hours is estimated to be $4,779,225 ((225 hours × $4,465/hour for board of director's time + (16,200 hours × $233/hour for a trust administrator's time)).[5] Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule's permission for funds to maintain their assets in foreign custodians.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: July 2, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–14749 Filed 7–8–20; 8:45 am]

BILLING CODE 8011–01–P

[1] *See* section 17(f) of the Act. 15 U.S.C. 80a–17(f).

[2] The staff believes that subcustodian monitoring does not involve ''collection of information'' within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (''Paperwork Reduction Act'').

[3] This figure is an estimate of the number of new funds each year, based on data reported by funds for 2017, 2018, and 2019. In practice, not all funds will use foreign custody managers. The actual figure therefore may be smaller.

[4] This estimate is based on staff research.

[5] Based on fund industry representations, the staff estimated in 2014 that the average cost of board of director time, for the board as a whole, was $4,000 per hour. Adjusting for inflation, the staff estimates that the current average cost of board of director time is approximately $4,465 per hour. The $233/hour figure for a trust administrator is from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 408X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Hudson and Essex Counties, NJ

On June 19, 2020, Norfolk Southern Railway Company (NSR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to abandon an approximately 8.6-mile rail line, extending from milepost WD 2.9 in the City of Jersey City, to milepost WD 11.5 in the Township of Montclair, in Hudson and Essex Counties, NJ (the Line). The Line traverses U.S. Postal Service Zip Codes 07306, 07094, 07032, 07104, 07109, 07003, 07028, and 07042.

NSR states that it is seeking to abandon the Line because the Line has been dormant for more than a decade.[1]

[1] NSR states that it has served no customers on the Line since it acquired the property from the Consolidated Rail Corporation in 1999. (Pet. 4, 11.) According to NSR, in 2005, it discontinued service over a 6.2-mile segment between milepost WD 2.2 in Jersey City and milepost WD 8.4 in Newark. (*Id.*) *See Norfolk S. Ry.—Discontinuance of Serv. Exemption—Between Newark & Kearney, NJ, in Essex & Hudson Ctys., NJ,* AB 290 (Sub-No. 242X) (STB served Jan. 18, 2005). NSR states that New Jersey Transit operated commuter rail passenger service over the Line until 2002, (pet. 10–11), and the 6.2-mile segment served as an overhead route to serve one customer located on the Newark Industrial Track, (*id.* at 4–5). NSR states that no freight traffic has moved over the remaining segment of the Line from milepost WD 8.4 to

(Pet. 5.) According to NSR, it plans to convey the Line's right-of-way, pursuant to an interim trail use/rail banking agreement, to Open Space Institute Land Trust, Inc. (OSI) so that the Line may be used for a public redevelopment project. (*Id.* at 3, 5.) NSR states that OSI, in partnership with Hudson and Essex Counties, plans to redevelop the Line, create greenways, and provide for alternative modal access to various sites located along the Line, which would promote economic growth in the region. (*Id.* at 3, 5, 15.)

In addition to an exemption from 49 U.S.C. 10903, NSR also seeks an exemption from the offer of financial assistance procedures of 49 U.S.C. 10904. In support, NSR states that the Line is needed for a valid public purpose, *i.e.,* the redevelopment project, and there is no overriding public need for continued freight rail service along the Line. (Pet. 17–18.) According to NSR, the reinstitution of freight rail service under 10904 would be incompatible with the intended use of the Line by OSI and Hudson and Essex Counties. (*Id.* at 17.) This request will be addressed in the final decision.

According to NSR, the Line does not contain any federally granted rights-of-way. Any documentation in NSR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by October 7, 2020.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) for continued rail service will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Persons interested in submitting an OFA must first file a formal expression of intent to file an offer by July 20, 2020, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(1)(i).

Following authorization for abandonment, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for interim trail use/rail banking under 49 CFR 1152.29 will be due no later than July 29, 2020.[2]

All pleadings, referring to Docket No. AB 290 (Sub-No. 408X), 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 NSR's representative, William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Avenue NW, Suite 300, Washington, DC 20037. Replies to the petition are due on or before July 29, 2020.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who comment during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available at *www.stb.gov.*

Decided: July 6, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Andrea Pope-Matheson,

Clearance Clerk.

[FR Doc. 2020–14803 Filed 7–8–20; 8:45 am]

BILLING CODE 4915–01–P

milepost WD 11.5 since 2009, before which the segment served as an overhead route to access one customer located on the Orange Industrial Track. (*Id.* at 4, 11.)

[2] The filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusion Extensions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of product exclusion extensions.

SUMMARY: Effective July 6, 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $34 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The U.S. Trade Representative initiated the exclusion process in July 2018 and, to date, has granted 10 sets of exclusions under the $34 billion action. The sixth set of exclusions was published in July 2019 and will expire in July 2020. On April 30, 2020, the U.S. Trade Representative established a process for the public to comment on whether to extend particular exclusions granted in July 2019 for up to 12 months. This notice announces the U.S. Trade Representative's determination to extend certain exclusions through December 31, 2020.

DATES: The product exclusion extensions announced in this notice will apply as of July 9, 2020, and extend through December 31, 2020. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Assistant General Counsels Philip Butler or Benjamin Allen, or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions identified in the Annex to this notice, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see prior notices including: 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 32181 (July 11, 2018), 83 FR 67463 (December 28, 2018), 84 FR 11152 (March 25, 2019), 84 FR 16310 (April 18, 2019), 84 FR 21389 (May 14, 2019), 84 FR 25895 (June 4, 2019), 84 FR 32821

(July 9, 2019), 84 FR 43304 (August 20, 2019), 84 FR 46212 (September 3, 2019), 84 FR 49564 (September 20, 2019), 84 FR 52567 (October 2, 2019), 84 FR 58427 (October 31, 2019), 84 FR 70616 (December 23, 2019), 84 FR 72102 (December 30, 2019), 85 FR 6687 (February 5, 2020), 85 FR 12373 (March 2, 2020), 85 FR 16181 (March 20, 2020), 85 FR 24081 (April 30, 2020), 85 FR 33775 (June 2, 2020), and 85 FR 34274 (June 3, 2020).

Effective July 6, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 818 eight-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $34 billion. *See* 83 FR 28710 (the $34 billion action). The U.S. Trade Representative's determination included a decision to establish a process by which U.S. stakeholders could request exclusion of particular products classified within an eight-digit HTSUS subheading covered by the $34 billion action from the additional duties. The U.S. Trade Representative issued a notice setting out the process for the product exclusions and opened a public docket. *See* 83 FR 32181 (the July 11 notice).

In July 2019, the U.S. Trade Representative granted a set of exclusion requests, which expire on July 9, 2020. *See* 84 FR 32821 (the July 9 notice). On April 30, 2020, the U.S. Trade Representative invited the public to comment on whether to extend by up to 12 months, particular exclusions granted in the July 9 notice. *See* 85 FR 24081 (the April 30 notice).

Under the April 30 notice, commenters were asked to address whether the particular product and/or a comparable product is available from sources in the United States and/or in third countries; any changes in the global supply chain since July 2018 with respect to the particular product, or any other relevant industry developments; and efforts, if any, importers or U.S. purchasers have undertaken since July 2018 to source the product from the United States or third countries.

In addition, commenters who were importers and/or purchasers of the products covered by an exclusion were asked to provide information regarding their efforts since July 2018 to source the product from the United States or third countries; the value and quantity of the Chinese-origin product covered by the specific exclusion request purchased in 2018 and 2019, and whether these purchases are from a related company; whether Chinese suppliers have lowered their prices for products covered by the exclusion following the imposition of duties; the value and quantity of the product covered by the exclusion purchased from domestic and third country sources in 2018 and 2019; the commenter's gross revenue for 2018 and 2019; whether the Chinese-origin product of concern is sold as a final product or as an input; whether the imposition of duties on the products covered by the exclusion will result in severe economic harm to the commenter or other U.S. interests; and any additional information in support or in opposition of the extending the exclusion.

The April 30 notice required the submission of comments no later than June 1, 2020.

B. Determination To Extend Certain Exclusions

Based on evaluation of the factors set out in the July 11 notice and April 30 notice, which are summarized above, pursuant to sections 301(b), 301(c), and 307(a) of the Trade Act of 1974, as amended, and in accordance with the advice of the interagency Section 301 Committee, the U.S. Trade Representative has determined to extend certain product exclusions covered by the July 9 notice, as set out in the Annex to this notice.

The April 30 notice provided that the U.S. Trade Representative would consider extensions of up to 12 months. In light of the cumulative effect of current and possible future exclusions or extensions of exclusions on the effectiveness of the action taken in this investigation, the U.S. Trade Representative has determined to extend the exclusions in the Annex to this notice for less than 12 months—through December 31, 2020. To date, the U.S. Trade Representative has granted more than 6,200 exclusion requests, has extended some of these exclusions, and may consider further extensions of exclusions. More than 6,500 requests are pending on the products covered by the action taken on August 20, 2019. The U.S. Trade Representative will take account of the cumulative effect of exclusions in considering the possible further extension of the exclusions covered by this notice, as well as possible extensions of exclusions of other products covered by the action in this investigation. The U.S. Trade Representative's determination also takes into account advice from advisory committees and any public comments concerning extension of the pertinent exclusion.

In accordance with the July 11 notice, the exclusions are available for any product that meets the description in the Annex, regardless of whether the importer filed an exclusion request. Further, the scope of each exclusion is governed by the scope of the ten-digit HTSUS headings and product descriptions in the Annex to this notice, and not by the product descriptions set out in any particular request for exclusion.

As set out in the Annex, the U.S. Trade Representative has determined to extend, through December 31, 2020, the following exclusions granted under the July, 2019 notice under heading 9903.88.11 and under U.S. note 20(n) to subchapter III of chapter 99 of the HTSUS: (8), (17), (18), (23), (28), (77), (85), (87), (88), (97), (98), and (106).

Joseph Barloon,

General Counsel, Office of the United States Trade Representative.

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ANNEX FOR EXTENSIONS OF CERTAIN PRODUCT EXCLUSIONS

FROM THE SIXTH ROUND OF EXCLUSIONS FROM TRANCHE 1

A. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 9, 2020 and before 11:59 p.m. eastern daylight time on December 31, 2020, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. by inserting the following new heading 9903.88.52 in numerical sequence, with the material in the new heading inserted in the columns of the HTSUS labeled "Heading/Subheading", "Article Description", and "Rates of Duty 1-General", respectively:

Heading/ Subheading	Article Description	Rates of Duty		
		1		2
		General	Special	
"9903.88.52	Effective with respect to entries on or after July 9, 2020, and through December 31, 2020, articles the product of China, as provided for in U.S. note 20(eee) to this subchapter, each covered by an exclusion granted by the U.S. Trade Representative	The duty provided in the applicable subheading"		

2. by inserting the following new U.S. note 20(eee) to subchapter III of chapter 99 in numerical sequence:

"(eee) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.01 and provided for in U.S. notes 20(a) and 20(b) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.01. See 83 Fed. Reg. 28710 (June 20, 2018) and 83 Fed. Reg. 32181 (July 11, 2018). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that, as provided in heading 9903.88.52, the additional duties provided for in heading 9903.88.01 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:

(1) Direct acting and spring return pneumatic actuators, each rated at a maximum pressure of 10 bar and valued over $68 but not over $72 per unit (described in statistical reporting number 8412.39.0080)
(2) Pump casings and bodies (described in statistical reporting number 8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January

1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020)
(3) Pump covers (described in statistical reporting number 8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020)
(4) Pump parts, of plastics, each valued not over $3 (described in statistical reporting number 8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020)
(5) Compressors, other than screw type, used in air conditioning equipment in motor vehicles, each valued over $88 but not over $92 per unit (described in statistical reporting number 8414.30.8030)
(6) Structural components for industrial furnaces (described in statistical reporting number 8514.90.8000)
(7) Aluminum electrolytic capacitors, each valued not over $3.20 (described in statistical reporting number 8532.22.0085)
(8) Rotary switches, rated at over 5 A, measuring not more than 5.5 cm by 5.0 cm by 3.4 cm, each with 2 to 8 spade terminals and an actuator shaft with D-shaped cross section (described in statistical reporting number 8536.50.9025)
(9) Rotary switches, single pole, single throw (SPST), rated at over 5 A, each measuring not more than 14.6 cm by 8.9 cm by 14.1 cm (described in statistical reporting number 8536.50.9025)
(10) Zinc anodes for use with machines and apparatus for electroplating, electrolysis or electrophoresis (described in statistical reporting number 8543.30.9080)
(11) Weather station sets, each consisting of a monitoring display and outdoor weather sensors, having a transmission range of not over 140 m and valued not over $50 per set (described in statistical reporting number 9015.80.8080)
(12) Multi-leaf collimators of radiotherapy systems based on the use of X-ray (described in statistical reporting number 9022.90.6000)"

3. by amending the last sentence of the first paragraph of U.S. note 20(a) to subchapter III of chapter 99 by:

    a. by deleting "or (9)" and by inserting "(9)" in lieu thereof; and

    b. by inserting "; or (10) heading 9903.88.52 and U.S. note 20(eee) to subchapter III of chapter 99" after the phrase "U.S. note 20(ccc) to subchapter III of chapter 99", where it appears at the end of the sentence.

4. by amending the first sentence of U.S. note 20(b) to subchapter III of chapter 99 by:

    a. by deleting "or (9)" and by inserting "(9)" in lieu thereof; and

    b. by inserting "; or (10) heading 9903.88.52 and U.S. note 20(eee) to subchapter III of chapter 99" after the phrase "U.S. note 20(ccc) to subchapter III of chapter 99", where it appears at the end of the sentence.

5. by amending the Article Description of heading 9903.88.01:

a. by deleting "9903.88.19, or";

b. by inserting in lieu thereof "9903.88.19,"; and

c. by inserting "or 9903.88.52," after "9903.88.50,".

[FR Doc. 2020–14833 Filed 7–8–20; 8:45 am]
BILLING CODE 3290–F0–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Aviation Rulemaking Advisory Committee (ARAC) meeting.

SUMMARY: This notice announces a meeting of the ARAC.

DATES: The meeting will be held on Thursday, September 10, 2020, from 1:00 p.m. to 4:00 p.m. Eastern Daylight Time.

Requests to attend the meeting must be received by Monday, August 24, 2020.

Requests for accommodations to a disability must be received by Monday, August 24, 2020.

Requests to submit written materials to be reviewed during the meeting must be received no later than Monday, August 24, 2020.

ADDRESSES: The meeting will be held virtually. Members of the public who wish to observe the meeting must RSVP by emailing *9-awa-arac@faa.gov.* General committee information including copies of the meeting minutes will be available on the FAA Committee website at *https://www.faa.gov/regulations_policies/rulemaking/committees/documents/.*

FOR FURTHER INFORMATION CONTACT: Lakisha Pearson, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267–4191; fax (202) 267–5075; email *9-awa-arac@faa.gov.* Any committee-related request should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

The ARAC was created under the Federal Advisory Committee Act (FACA), in accordance with Title 5 of the United States Code (5 U.S.C. App. 2) to provide advice and recommendations to the FAA concerning rulemaking activities, such as aircraft operations, airman and air agency certification, airworthiness standards and certification, airports, maintenance, noise, and training.

II. Agenda

At the meeting, the agenda will cover the following topics:

- Status Report from the FAA
- Status Updates:
  - Active Working Groups
  - Transport Airplane and Engine (TAE) Subcommittee
- Recommendation Reports
- Any Other Business

Detailed agenda information will be posted on the FAA Committee website address listed in the **ADDRESSES** section at least one week in advance of the meeting.

III. Public Participation

The meeting will be open to the public on a first-come, first-served basis, as space is limited. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Please provide the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation. If you are attending as a public citizen, please indicate so.

For persons participating by telephone, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by email or phone for the teleconference call-in number and passcode. Callers are responsible for paying long-distance charges.

The U.S. Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

The FAA is not accepting oral presentations at this meeting due to time constraints. Any member of the public may present a written statement to the committee at any time. The public may present written statements to the Aviation Rulemaking Advisory Committee by providing a copy to the Designated Federal Officer via the email listed in the **FOR FURTHER INFORMATION CONTACT** section.

Issued in Washington, DC, on July 2, 2020.

Brandon Roberts,

Executive Director, Office of Rulemaking.

[FR Doc. 2020–14792 Filed 7–8–20; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. FAA–2020–39]

Petition for Exemption; Summary of Petition Received; Sands Aviation, LLC

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before July 29, 2020.

ADDRESSES: Send comments identified by docket number FAA–2020–0444 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Quentin Flinn (202) 267–3873, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on July 2, 2020.

Brandon Roberts,

Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2020–0444.

Petitioner: Sands Aviation, LLC.

Section(s) of 14 CFR Affected: 125.91(b).

Description of Relief Sought: Sands Aviation LLC., seeks an exemption to allow it to extend the aircraft weighing interval from 36 months to 48 months for its Boeing 737–700 (BBJ) fleet.

[FR Doc. 2020–14795 Filed 7–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2020–0006]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the extension of a currently approved information collection:

Charter Service Operations

DATES: Comments must be submitted before September 8, 2020.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Website: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (Note: The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov.* Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Micah M. Miller (404) 865–5474 or email: *micah.miller@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Charter Service Operations

(OMB Number: 2132–0543)

Background: FTA recipients may only provide charter bus service with FTA-funded facilities and equipment if the charter service is incidental to the provision of transit service (49 U.S.C. 5323(d)). This restriction protects charter service providers from unauthorized competition by FTA recipients.

The requirements of 49 U.S.C. 5323(d) are implemented in FTA's charter regulation (Charter Service Rule) at 49 CFR part 604. Amended in 2008, the Charter Service Rule now contains five (5) provisions that impose information collection requirements on FTA recipients of financial assistance from FTA under Federal Transit Law.

First, 49 CFR 604.4 requires all applicants for Federal financial assistance under Federal Transit Law, unless otherwise exempted under 49 CFR 604.2, to enter into a ''Charter Service Agreement,'' contained in the Certifications and Assurances for FTA Assistance Programs. The Certifications and Assurances become a part of the Grant Agreement or Cooperative Agreement for Federal financial assistance upon receipt of Federal funds. The rule requires each applicant to submit one Charter Service Agreement for each year that the applicant intends to apply for the Federal financial assistance specified above.

Second, 49 CFR 604.14(3) requires a recipient of Federal funds under Federal Transit Law, unless otherwise exempt, to provide email notification to all registered charter providers in the recipient's geographic service area each

time the recipient receives a request for charter service that the recipient is interested in providing.

Third, 49 CFR 604.12(c) requires a recipient, unless otherwise exempt under 49 CFR part 604.2, to submit on a quarterly basis records of all instances that the recipient provided charter service.

Fourth, 49 CFR 604.13 requires a private charter provider to register on FTA's Charter Registration website at *http://ftawebprod.fta.dot.gov/CharterRegistration/* in order to qualify as a registered charter service provider and receive email notifications by recipients that are interested in providing a requested charter service. The rule requires that a registered charter service provider must update its information on the Charter Registration website at least once every two years. Currently, there are a total of 287 registered private charter service providers. Registration has consistently decreased over the years.

Lastly, 49 CFR 604.7 permits recipients to provide charter service to Qualified Human Service Organizations (QHSO) under limited circumstances. QHSOs that do not receive Federal funding under programs listed in Appendix A to Part 604 and seek to receive free or reduced rate services from recipients must register on FTA's Charter Registration website (49 CFR 604.15(a)).

Respondents: State and local government, business or other for-profit institutions, and non-profit institutions.

Estimated Total Annual Respondents: 2,180.

Estimated Annual Burden on Respondents: 403.3 hours (0.05 hours for each of the 1,676 Recipient respondents under 49 CFR 604.4. 1.25 hours for each of the 90 Recipient respondents under 49 CFR 604.12, 0.50 hours for each of the 90 Recipient respondents under 49 CFR 604.14. 0.50 hours for each of the 37 non-profit respondents, and 0.50 hours for each of the estimated 287 for-profit respondents.

Frequency: Annually, bi-annually, quarterly, and as required.

Nadine Pembleton,

Director Office of Management Planning.

[FR Doc. 2020–14745 Filed 7–8–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, August 11, 2020.

FOR FURTHER INFORMATION CONTACT: Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Project Committee will be held Tuesday, August 11, 2020, at 1:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Matthew O'Sullivan. For more information please contact Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274, or write TAP Office, 1301 Clay Street, Oakland, CA 94612–5217 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: July 2, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–14770 Filed 7–8–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Line Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Line Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, August 12, 2020.

FOR FURTHER INFORMATION CONTACT: Rosalind Matherne at 1–888–912–1227 or 202–317–4115.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee will be held Wednesday, August 12, 2020 at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Rosalind Matherne. For more information please contact Rosalind Matherne at 1–888–912–1227 or 202–317–4115, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: July 2, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–14772 Filed 7–8–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, August 27, 2020.

FOR FURTHER INFORMATION CONTACT: Gilbert Martinez at 1–888–912–1227 or (737) 800–4060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be

held Thursday, August 27, 2020, at 1:30 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. For more information please contact Gilbert Martinez at 1–888–912–1227 or (737–800–4060), or write TAP Office 3651 S IH–35, STOP 1005 AUSC, Austin, TX 78741, or post comments to the website: *http://www.improveirs.org.*

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: July 2, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–14776 Filed 7–8–20; 8:45 am]

BILLING CODE 4830–01–P

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Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating Residual Risk and Technology Review; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0416; FRL–10006–74–OAR]

RIN 20660–AU22

National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating 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 Paper and Other Web Coating (POWC) source category regulated under national emission standards for hazardous air pollutants (NESHAP). The Agency is finalizing the proposed determination that risks due to emissions of air toxics are acceptable from this source category and that the current NESHAP provides an ample margin of safety to protect public health. Further, the U.S. Environmental Protection Agency (EPA) identified no new cost-effective controls under the technology review that would achieve significant further emissions reductions, and, thus, is finalizing the proposed determination that no revisions to the standards are necessary based on developments in practices, processes, or control technologies. In addition, the Agency is taking final action addressing startup, shutdown, and malfunction (SSM). These final amendments address emissions during SSM events, add a compliance demonstration equation that accounts for retained volatiles in the coated web; add repeat testing and electronic reporting requirements; and make technical and editorial changes. The EPA is making these amendments to improve the effectiveness of the NESHAP, and 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 9, 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 9, 2020. The IBR of certain other publications listed in the rule is approved by the Director of the Federal Register as of December 4, 2002.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0416. 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 (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available 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 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 Mr. John Cox, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building (Mail Code 2221A), 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–1395; and email address: *cox.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. The EPA uses 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:

ASME American Society of Mechanical Engineers
ASTM American Society for Testing and Materials
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
HAP hazardous air pollutant(s)
HI hazard index
IBR incorporation by reference
ICR Information Collection Request
km kilometer
MACT maximum achievable control technology
MIR maximum individual risk
NESHAP national emission standards for hazardous air pollutants
NSPS new source performance standards
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PDF portable document format
POWC paper and other web coating
ppm parts per million
ppmv parts per million by volume
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RTR residual risk and technology review
SSM startup, shutdown, and malfunction
the Court United States Court of Appeals for the District of Columbia Circuit
TOSHI target organ-specific hazard index
tpy tons per year
UMRA Unfunded Mandates Reform Act
URE unit risk estimate
U.S.C. United States Code
VCS voluntary consensus standards
VOC volatile organic compound(s)

Background information. On September 19, 2019, the EPA proposed determinations regarding the POWC NESHAP RTR and proposed revisions to the NESHAP to address emissions during SSM events and improve monitoring, compliance, and implementation. In this action, the EPA is finalizing the proposed RTR determinations and additional revisions for the rule. The Agency summarizes the more significant comments we received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the *National Emissions Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal,* in Docket ID No. EPA–HQ–OAR–2018–0416. 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:

I. General Information
A. Does this action apply to me?

B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What is the POWC source category and how does the NESHAP regulate HAP emissions from the source category?
C. What changes did we propose for the POWC source category in our September 19, 2019, proposal?
III. What is included in this final rule?
A. What are the final rule amendments based on the risk review for the POWC source category?
B. What are the final rule amendments based on the technology review for the POWC source category?
C. What are the final rule amendments addressing emissions during periods of SSM?
D. What other changes have been made to the NESHAP?
E. What are the effective and compliance dates of the standards?
IV. What is the rationale for our final decisions and amendments for the POWC source category?
A. Residual Risk Review for the POWC Source Category
B. Technology Review for the POWC Source Category
C. Revisions to the SSM Provisions for the POWC Source Category
D. Method For Determining Volatile Organic Matter Retained in the Coated Web
E. Periodic Performance Testing
F. Electronic Reporting
G. Temperature Sensor Validation
H. Operating Parameter Clarification
I. IBR Under 1 CFR part 51 for the POWC Source Category
J. Technical and Editorial Changes
V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted
A. What are the affected facilities?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
F. What analysis of environmental justice did we conduct?
G. What analysis of children's environmental health did we conduct?
VI. Statutory and Executive Order Reviews
A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
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

NESHAP and source category	NAICS [1] code
Paper and Other Web Coating.	322220, 322121, 326113, 326112, 325992, 327993

[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 category 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/paper-and-other-web-coating-national-emission-standards-hazardous-0.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents 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 September 8, 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 Agency 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 Agency must also consider control options that are more stringent than the floor under CAA section 112(d)(2). The EPA 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 49382 (September 19, 2019).

B. What is the POWC source category and how does the NESHAP regulate HAP emissions From the source category?

The EPA promulgated the POWC NESHAP on December 4, 2002 (67 FR 72330). The standards are codified at 40 CFR part 63, subpart JJJJ. The POWC source category includes new and existing facilities that coat paper and other web substrates that are major sources of HAP emissions. For purposes of the regulation, a web is defined as a continuous substrate that is capable of being rolled at any point during the coating process. Further, a web coating line is any number of work stations, of which one or more applies a continuous layer of coating material along the entire width of a continuous web substrate or any portion of the width of the web substrate, and any associated curing/drying equipment between an unwind (or feed) station and a rewind (or cutting) station. The source category covered by this NESHAP currently includes 168 facilities.

Web coating operations covered by other NESHAP (*i.e.,* Printing and Publishing, 40 CFR part 63, subpart KK; Magnetic Tape, 40 CFR part 63, subpart EE; Metal Coil Coating, 40 CFR part 63, subpart SSSS; Fabric Coating, 40 CFR part 63, subpart OOOO), and research and development lines are excluded from the requirements of 40 CFR part 63, subpart JJJJ. In addition, specific process exclusions include lithography, screen printing, letterpress, and narrow web flexographic printing.

Facilities subject to the POWC NESHAP utilize low-solvent coatings, add-on controls, or a combination of both to meet the organic HAP emission limits, as described in the preamble to the proposed rule (84 FR 49385, September 19, 2019). The NESHAP also includes various operating limits, initial and continuous compliance requirements, and recordkeeping and reporting requirements for the POWC source category. The EPA reviewed these requirements and are updating them as part of this action in conjunction with finalizing the RTR for this source category

C. What changes did we propose for the POWC source category in our September 19, 2019, proposal?

On September 19, 2019, the EPA published a proposed rule in the **Federal Register** for the POWC NESHAP, 40 CFR part 63, subpart JJJJ, that took into consideration the RTR analyses. As discussed in the preamble to the proposed rule, the technology review did not identify any developments in practices, processes, or control technologies that were widely applicable to the industry that would significantly reduce HAP emissions, and, therefore, the Agency did not propose any changes to the NESHAP based on the technology review. Further, as discussed in the preamble to the proposed rule, the risk analysis indicated no changes to the NESHAP are necessary to reduce risk to an acceptable level, to provide an ample margin of safety to protect public health, or to prevent an adverse environmental effect. In addition to and separate from the proposed determinations based on our RTR analyses, the EPA proposed the following:

- Revisions to the SSM provisions of the NESHAP to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), which vacated two provisions that exempted sources from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM;
- a new compliance calculation to account for retained volatile organic content retained in the coated web;
- new periodic air emissions testing requirements for facilities that use non-recovery control devices;
- new reporting provisions requiring affected sources to electronically submit initial notifications, notification of compliance status, semiannual compliance reports, performance test reports, and performance evaluation reports;
- new temperature sensor validation requirements;
- operating parameter clarifications;

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (DC 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.'').

- IBR of several test methods; and
- technical and editorial changes to remove the Occupational Safety and Health Administration (OSHA)-defined carcinogens reference, clarify compliance demonstration options, clarify the definition of coating materials, add a web coating line usage threshold, add a printing activity exemption, clarify testing requirements, change applicability of sources using only non-HAP coatings, clarify oxidizer temperature monitoring compliance, and revise compliance report content requirements.

III. What is included in this final rule?

This action is finalizing the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the POWC source category. This action is also finalizing other changes to the NESHAP, including revisions to the SSM requirements; a compliance calculation to account for retained volatile organic content retained in the coated web; periodic testing requirements for add-on control devices; electronic submittal of initial notifications, notification of compliance status, semiannual compliance reports, performance test reports, and performance evaluation reports; temperature sensor validation requirements; operating parameter clarifications; IBR of several test methods; and various technical and editorial changes.

A. What are the final rule amendments based on the risk review for the POWC source category?

The EPA proposed no changes to the POWC NESHAP based on the risk review conducted pursuant to CAA section 112(f). The EPA is finalizing the proposed determination that risks from the source category are acceptable, considering all of the health information and factors evaluated, and also considering risk estimation uncertainty. The Agency is also finalizing the proposed determination that revisions to the current standards are not necessary to reduce risk to an acceptable level, to provide an ample margin of safety to protect public health, or to prevent an adverse environmental effect. The EPA received no new data or other information during the public comment period that affected the proposed determinations. Therefore, the EPA is finalizing the proposed determination and making no revisions to the NESHAP based on the analyses conducted under CAA section 112(f), and we are readopting the standards.

B. What are the final rule amendments based on the technology review for the POWC source category?

In the proposed rule, the EPA proposed to determine that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. The EPA received no new data or other information during the public comment period that affected our proposed determinations. Therefore, the EPA is finalizing the proposed determination and making no 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 proposed amendments to the POWC NESHAP to remove and revise provisions related to SSM. The EPA is finalizing the amendments, as proposed, with minor clarifications with this rulemaking. In its 2008 decision in *Sierra Club* v. *EPA,* 551 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 49382, September 19, 2019), the amended POWC NESHAP requires that the standards apply at all times (see 40 CFR 63.3320(b)), consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008). In addition to eliminating the SSM exemption, the EPA has removed 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 SSM provisions as proposed without setting a separate standard for startup and shutdown as discussed in the preamble to the proposed rule in section IV.D. Further, the EPA is not finalizing standards for malfunctions. As discussed in the September 19, 2019, proposal, 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 this action, it is unlikely that a malfunction would result in a violation of the standards, and no comments were submitted that would suggest otherwise. Refer to section IV.D 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.

As explained in more detail below, the EPA is finalizing revisions to the General Provisions table to 40 CFR part 63, subpart JJJJ, to eliminate requirements that include rule language providing an exemption for periods of SSM. Additionally, the EPA is 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, the EPA is finalizing the proposed amendments to revise the reporting and recordkeeping requirements as they relate to malfunctions, as further described below. As discussed in the preamble to the proposed rule, these revisions are consistent with the requirement in 40 CFR 63.3320(b) that the standards apply at all times. Refer to sections IV.C of this preamble for a detailed discussion of these amendments.

D. What other changes have been made to the NESHAP?

Other changes that have been made to the regulation include incorporation of a compliance calculation to account for retained volatile organic content retained in the coated web; periodic performance testing requirements; electronic submittal of initial notifications, notification of compliance status, semiannual compliance reports, performance test reports, and performance evaluation reports; temperature sensor validation requirements; operating parameter clarifications; IBR of several test methods; and various technical and editorial changes. The EPA's analyses and changes related to these issues are discussed below.

Other changes to the NESHAP that do not fall into the categories in the previous section include:

- *Method for determining volatile organic matter retained in the coated web.* The EPA is finalizing the addition of an equation to account for volatile organic matter retained in the coated

web as discussed in section IV.D of this preamble.

• *Periodic performance testing.* The EPA is finalizing a periodic testing requirement for non-recovery add-on control devices to ensure continued compliance, as discussed in section IV.E of this preamble.

• *Electronic reporting.* The EPA is finalizing amendments to the reporting requirements to require electronic reporting for initial notifications, notifications of compliance status, semiannual compliance reports, performance test reports, and performance evaluation reports, as discussed in section IV.F of this preamble.

• *Temperature sensor validation.* The EPA is finalizing amendments to remove the temperature sensor calibration requirement and replace it with validation requirements to ensure continued compliance, as discussed in section IV.G of this preamble.

• *Operating parameter clarification.* The EPA is finalizing, as proposed, an operating parameter clarification, as discussed in section IV.H of this preamble.

• *IBR under 1 CFR part 51.* The EPA is finalizing the IBR of several test methods, as discussed in section IV.I of this preamble.

• *Technical and editorial changes.* The EPA is finalizing technical and editorial changes, as discussed in section IV.J of this preamble.

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 9, 2020.[2] The compliance date for affected existing facilities is 365 days after the effective date of the final rule, with the exception of electronic reporting of semiannual reports. Affected source owners and operators that commence construction or reconstruction after September 19, 2019, must comply with all requirements of the subpart, including the amendments being finalized with this action (except for the electronic reporting of semiannual reports), no later than the effective date of the final rule or upon startup, whichever is later. All affected sources must use the Compliance and Emissions Data Reporting Interface (CEDRI) reporting template for semiannual reports for the subsequent semiannual reporting period after the form has been available in CEDRI for 1 year. All affected existing facilities must meet the current requirements of 40 CFR part 63, subpart JJJJ until the applicable compliance date of the amended rule.

As explained in the preamble to the proposed rule, the EPA proposed a compliance period of 180 days for existing sources because the amendments would impact ongoing compliance requirements (84 FR 79406, September 19, 2019). Two significant amendments, the removal of the SSM exemption and the addition of electronic reporting, were determined to require additional time for changing reporting and recordkeeping systems. As stated in the preamble to the proposed rule, the EPA's experience with similar industries that are required to convert reporting mechanisms; 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; reliably employ electronic reporting; and convert logistics of reporting processes to different time-reporting parameters, shows that a time period of a minimum of 90 days, and more typically, 180 days, is generally necessary to successfully complete these changes. Our experience with similar industries further shows that owners or operators of this sort of regulated facility generally requires 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 periods of startup and shutdown as defined in the rule, and make any necessary adjustments; adjust parameter monitoring and recording systems to accommodate revisions; and update their operations to reflect the revised requirements. The EPA recognizes the confusion that multiple compliance dates for individual requirements would create and the additional burden such an assortment of dates would impose.

In the preamble to the proposed rule, the EPA 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. The EPA also noted that information provided in response to this request for comment could result in changes to the proposed compliance date (84 FR 49406, September 19, 2019). Comments were provided suggesting that 180 days was not enough time to comply with the proposed changes and that a minimum of 365 days was needed. Commenters noted that tasks that would need to be completed during the compliance period were: Develop site-specific implementation plan for changes to add-on control device requirements; review startup and shutdown procedures; reprogram electronic systems and automated alarms consistent with the removal of the SSM provisions; revise the oxidizer temperature operating limit; rework recordkeeping and reporting procedures and systems to match the new CEDRI form; develop and communicate guidance to ensure consistent implementation across a company's facilities; prepare permit applications; acquire new permits; and develop and provide training for facility staff on the amended requirements.

The EPA reviewed the information provided by commenters regarding tasks needed to be completed during the compliance period and agrees that 180 days is not sufficient time, particularly for implementing the changes to add-on control device requirements and for reworking recordkeeping and reporting procedures to comply with the amendments, including the removal of the SSM exemption. This source category needs additional time for these changes because of the complexity of the compliance calculations and the potential for a large variety of products to be produced on the same equipment (which requires multiple startup and shutdown events on a regular basis). From our assessment of the time frame needed for compliance with the entirety of the revised requirements and considering the public comments received, the EPA considers a period of 365 days to be the most expeditious compliance period practicable for the POWC source category, and, thus, the EPA is finalizing that existing affected sources must be in compliance with all of the POWC NESHAP amended requirements within 365 days of the effective date.

Additionally, comments were received from multiple commenters requesting more time to develop and train on the CEDRI semiannual reporting template. The Agency agrees with the commenters that more time is needed to accurately develop the template and to train facility staff on its use. As such, the EPA is finalizing that the electronic reporting template is not required to be used for semiannual reports until it has been available in CEDRI for 1 year. To prevent two separate reports for one semiannual reporting period, the Agency is finalizing that the reporting template should be used for the first full semiannual reporting period after the template has been available in CEDRI for 1 year. For example, if the template

[2] This final action is not a ''major rule'' as defined by 5 U.S.C. 804(2), so the effective date of the final rule is the promulgation date as specified in CAA section 112(d)(10).

becomes available in CEDRI on March 13, 2020, it would be used beginning with the report submitted for the July 2021–December 2021 reporting period.

IV. What is the rationale for our final decisions and amendments for the POWC source category?

For each issue, this section provides a description of what the EPA proposed and what the EPA is finalizing for the issue, a summary of key comments and responses, and the EPA's rationale for the final decisions and amendments. 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–2018–0416).

A. Residual Risk Review for the POWC Source Category

1. What did we propose pursuant to CAA section 112(f) for the POWC source category?

A residual risk analysis was conducted for the POWC source category. Details of the risk analysis can be found in section IV of the preamble to the proposed rule (84 FR 49382, September 19, 2019). The results of the risk analyses, and decisions on risk acceptability and ample margin of safety, as well as the results of the environmental risk screening assessment, are summarized here.

For the POWC source category risk assessment conducted prior to proposal, the EPA estimated risks based on actual and allowable emissions from POWC surface coating operations. The risk results for the POWC source category indicate that both the actual and allowable inhalation cancer risks to the individual most exposed are at least 14 times below the presumptive limit of acceptability of 100-in-1 million (*i.e.,* 1-in-10 thousand). The residual risk assessment for the POWC source category [3] estimated cancer incidence rate at 0.005 cases per year based on actual emissions. Approximately 4,300 people are exposed to a cancer risk equal to or above 1-in-1 million from the source category based upon actual emissions from 11 facilities.

The maximum chronic noncancer target organ-specific hazard index (TOSHI) due to inhalation exposures is less than 1 for actual and allowable emissions. The results of the acute screening analysis show that acute risks are below a level of concern for the source category considering the conservative assumptions used that err on the side of overestimating acute risk.

Multipathway screen values are below a level of concern for both carcinogenic and non-carcinogenic persistent and bioaccumulative HAP as well as emissions of lead compounds. Maximum cancer and noncancer risks due to ingestion exposures using health-protective risk screening assumptions are below the presumptive limit of acceptability. The maximum estimated excess cancer risk is below 1-in-1 million and the maximum noncancer hazard quotient (HQ) for mercury is less than 1 based upon the Tier 1 farmer/fisher exposure scenario.

The risk assessment for the POWC source category is contained in the report titled *Residual Risk Assessment for the Paper and Other Web Coating 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–2018–0416).

2. How did the risk review change for the POWC source category?

Neither the risk assessment nor the Agency's determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects for the POWC source category have changed since the proposal was published on September 19, 2019. Therefore, the EPA is finalizing the risk review as proposed with no changes (84 FR 49398, September 19, 2019).

3. What key comments did we receive on the risk review, and what are our responses?

Comments were received regarding the risk assessment inputs the EPA used to conduct the POWC source category risk assessment. First, commenters noted that the acute emissions multipliers should be less than the value of 10 that the EPA used in its source category acute risk assessment. The EPA agrees with the commenters that an acute hourly multiplier of 10 likely over-estimates the emissions for this source category, however, we did not reanalyze acute risk for this final rulemaking because the risk values were already deemed acceptable using the multiplier of 10 for the proposal and would have been further reduced with a lower multiplier. Second, commenters noted that the EPA's risk assessment was ''very conservative and likely overstates both annual and short-term HAP emission rates'' because it used allowable emissions as actual emissions where no other data were available. The commenters are correct in their assessment that the EPA used allowable emissions as actual emissions when no other data were available to ensure that the risk analysis did not underestimate the risk posed by the source category. Because risk was acceptable using this conservative approach and would have been reduced further if actual emissions data had been available, the results of this approach further supports the EPA's conclusion.

Additionally, comments were received regarding the risk assessment methods the EPA used to conduct the POWC source category risk assessment. Two commenters stated that the formaldehyde health value used in the risk assessment was not based on the best available science, and that the EPA should have used the value from the Chemical Industry Institute of Technology (CIIT) biologically-based dose-response model. We disagree with the commenters that the EPA should have used the CIIT formaldehyde value because the EPA has a tiered prioritized list of appropriate health benchmark values for use in the residual risk assessment, and in general, the hierarchy places greater weight on the EPA-derived health benchmarks than those from other organizations. Even though the commenters claim the Integrated Risk Information System (IRIS) value the EPA used was too high (*i.e.,* the value over-estimated risk), the EPA proposed, and is finalizing, that the risks from formaldehyde from this source category are acceptable.

Comments were also received supporting the EPA's use of the 99th percentile concentration for modeling acute risk. Overall, the EPA received no comments or new information demonstrating a need for the Agency to reanalyze risk for the final rulemaking, and, therefore, the risk assessment conducted for the proposed rule was used to support the Agency's conclusions for the final rule.

Additionally, the EPA received several comments supporting our conclusions relating to risk acceptability and that additional emissions reductions are not necessary to provide an ample margin of safety. One commenter opposed our acceptability determination because the EPA did not consider risk from emission sources from other source categories. The EPA has the discretion to conduct a facility-wide risk assessment which factors in emissions from process equipment outside of the source category. The Agency examines facility-wide risks to provide additional context for the source category risks. The development of facility-wide risk estimates provides

[3] Residual Risk Assessment for the Paper and Other Web Coating Source Category in Support of the 2020 Risk and Technology Review Final Rule, Docket ID No. EPA–HQ–OAR–2018–0416.

additional information about the potential cumulative risks in the vicinity of the source category emission units as one means of informing potential risk-based decisions about the source category in question. The Agency recognizes that, because these risk estimates were derived from facility-wide emission estimates which have not generally been subjected to the same level of engineering review as the source category emission estimates, they may be less certain than our risk estimates for the source category in question, but they remain important for providing context as long as their uncertainty is taken into consideration in the process.

For detailed comment summaries regarding the residual risk review and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. 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 maximum individual risk (MIR) of 'approximately 1-in-10 thousand''' (see 54 FR 38045, September 14, 1989). The EPA weighs all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum 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, the EPA determined that the risks from the POWC 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), the EPA is finalizing the residual risk review as proposed.

B. Technology Review for the POWC Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the POWC source category?

Pursuant to CAA section 112(d)(6), the EPA proposed to conclude that no revisions to the current MACT standards for the POWC source category are necessary (84 FR 49382, September 19, 2019). As described in section III.B of the preamble to the proposed rule, the technology review focused on identifying developments in practices, processes, and control technologies for reduction of HAP emissions from POWC facilities. In conducting the technology review, the EPA searched for and reviewed information on practices, processes, and control technologies that were not considered during the development of the POWC NESHAP. The review included a search of the Reasonably Available Control Technology/Best Available Control Technology/Lowest Achievable Emission Rate (RACT/BACT/LAER) Clearinghouse database, reviews of title V permits for POWC facilities, site visits to facilities with POWC operations, and a review of relevant literature. We did not identify any developments in practices, processes, or control technologies that were widely applicable to the industry and would significantly reduce HAP emissions, and, therefore, the EPA did not propose any changes to the NESHAP based on the technology review. For more details on the technology review, see the *Technology Review Analysis for the Paper and Other Web Coating Source Category* memorandum, in the docket for this rulemaking (Docket ID Item No. EPA–HQ–OAR–2018–0416–0086).

2. How did the technology review change for the POWC source category?

No new information was received to change the Agency's conclusions with respect to the technology review since the proposal was published on September 19, 2019. Therefore, the EPA is finalizing the proposed determination that no revisions to the NESHAP are necessary pursuant to CAA section 112(d)(6).

3. What key comments did we receive on the technology review, and what are our responses?

The EPA received no comments that identified improved control technology, work practices, operational procedures, process changes, or pollution prevention approaches to reduce emissions in the category since promulgation of the current NESHAP. The EPA received multiple supportive comments on the proposed technology review. For detailed comment summaries regarding the technology review and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. What is the rationale for our final approach for the technology review?

The technology review did not identify any changes in practices, processes, or control technologies that would reduce emissions in this category. The EPA did not identify any control equipment not previously identified; improvements to existing controls; work practices, process changes, or operational procedures not previously considered; or any new pollution prevention alternatives for this source category. We evaluated all of the comments on the technology review and determined that no changes to the review are needed, therefore, the EPA is finalizing the determination that no revisions to the NESHAP are necessary pursuant to CAA section 112(d)(6). Additional details of our technology review can be found in the memorandum titled *Technology Review Analysis for the Paper and Other Web Coating Source Category,* in the docket for this rulemaking (Docket ID Item No. EPA–HQ–OAR–2018–0416–0086).

C. Revisions to the SSM Provisions for the POWC Source Category

1. What did we propose pursuant to SSM provisions for the POWC source category?

The EPA proposed amendments to the POWC NESHAP to remove provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the elimination of SSM provisions is in the preamble to the proposed rule (84 FR 49399–49402, September 19, 2019).

2. How did the revisions to the SSM provisions change for the POWC source category?

The EPA is finalizing the SSM provisions as proposed with no changes.

3. What key comments did we receive on the SSM provisions, and what are our responses?

The EPA received several comments related to the proposed removal of the

SSM provisions. One commenter believed that the EPA is not required to change the regulation to require sources to meet the emission standards at all times, including periods of SSM. The EPA disagrees with the commenter's assertion. The EPA believes the *Sierra Club* decision (*Sierra Club* v. *EPA,* 551 F.3d 1019) held that emission limitations under CAA section 112 must apply continuously and meet minimum stringency requirements, even during periods of SSM. Consistent with this reading, the EPA proposed to remove the SSM exemption, and is finalizing the removal with this action. Other commenters were generally supportive of the SSM exemption removal and noted that it would likely have minimal impacts on regulated facilities. For detailed comment summaries regarding the removal of the SSM exemption and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. What is the rationale for our final approach and final decisions for the revisions to the SSM provisions?

The rationale for each of the amendments the EPA is finalizing to address SSM is in the preamble to the proposed rule (84 FR 49399–49402, September 19, 2019). After evaluation of the comments received, the EPA's rationale for revisions to the SSM provisions has not changed since proposal and we are finalizing the approach for removing the SSM provisions as proposed.

D. Method for Determining Volatile Organic Matter Retained in the Coated Web

1. What did we propose?

A portion of the HAP in coatings applied to paper and other web substrates may be retained in the web instead of being volatilized as air emissions. The existing NESHAP allows for the accounting of HAP retained in the coated web in 40 CFR 63.3360(g), but stakeholders indicated the requirement to ''develop a testing protocol to determine the mass of volatile matter retained . . . and submit this protocol to the Administrator for approval'' was vague and unworkable. As discussed in the preamble to the proposed rule (84 FR 49402, September 19, 2019), to provide clarity and reduce regulatory burden, the EPA proposed to incorporate the utilization of an emission factor to account for volatile organic matter retained in the coated web. As discussed in the preamble to the proposed rule, the EPA proposed new language to allow facilities to account for retained volatile organics in their compliance demonstration calculations without requiring the submittal of an alternative monitoring request to the EPA under the provisions of 40 CFR 63.8(f).

2. What changed since proposal?

Two changes have been made to the proposed provisions for determining volatile organic matter retained in the coated web. First, the EPA has clarified that ''retained in the web'' means ''retained in the coated web or otherwise not emitted.'' Second, the EPA has added additional flexibility to allow any EPA-approved method, manufacturer's emissions test data, or mass balance approach using modified EPA Method 24 to be used to develop the emission factor.

3. What are the key comments and what are our responses?

The EPA received comments from four commenters supporting the addition of the emission factor approach for determining the amount of volatile matter retained in the web. Commenters suggested that the EPA clarify that ''retained in the web'' means ''retained in the coated web or otherwise not emitted.'' The EPA agrees that this is an appropriate clarification and has revised the regulatory text accordingly.

The EPA also received comments suggesting that we allow other methods for developing the emission factor to determine the amount of volatile organic matter retained. Commenters specifically requested the ability to use other EPA-approved test methods, manufacturer's emissions test data, or mass-balance type approaches using modified EPA Method 24. The EPA agrees that allowing the use of these methods would provide flexibility and still appropriately characterize emissions from the web coating process.

For detailed comment summaries regarding the methods used to determine the volatile organic matter retained in the coated web and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. What is the rationale for our final approach to determining volatile matter retained in the coated web?

The EPA reviewed the public comments and are finalizing the proposed method of determining the volatile organic material retained in the coated web with two changes as a result of public comment. The EPA is clarifying that ''retained in the web'' means ''retained in the coated web or otherwise not emitted'' in the regulatory text and is allowing for additional test methods for use in the development of the emission factor. Both of these changes provide regulatory clarity and flexibility, but still appropriately characterize emissions from the web coating process. The amendments add compliance flexibility and reduce regulatory burden but do not alter the emission standard. This approach quantifies emissions in a way that is representative of the actual emissions from the coating operations instead of assuming that all coating-HAP is emitted.

E. Periodic Performance Testing

1. What did we propose?

The EPA proposed that facilities that use non-recovery control devices (*e.g.,* thermal and catalytic oxidizers) must conduct periodic air emissions performance testing, with the first of the periodic performance tests to be conducted within 3 years of the effective date of the revised standards and thereafter every 5 years following the previous test. The EPA also proposed that facilities using the emission factor approach to account for volatile matter retained in the web must conduct periodic performance testing every 5 years to re-establish the emission factor.

2. What changed since proposal?

The periodic performance testing requirements for catalytic oxidizers and those for emission factor development have changed since the September 2019 proposal in response to public comment. For catalytic oxidizers, commenters suggested that annual catalyst activity testing would be more indicative of oxidizer operation than 5-year inlet/outlet emissions testing. The EPA is therefore finalizing that catalytic oxidizers may do an annual catalyst activity test instead of the 5-year inlet/outlet emissions testing. The EPA is finalizing periodic performance testing requirements for thermal oxidizers as proposed (84 FR 49403, September 19, 2019). The EPA has clarified that the testing is only required for add-on control devices used to demonstrate

compliance with the POWC NESHAP. The EPA is not finalizing the 5-year requirement to re-establish emission factors used in determining the amount of volatile organics retained in the coated web for 40 CFR 63.3360(g), but is finalizing a requirement that periodic performance testing be done if there is a change in coating formulation, operation conditions, or other change that could reasonably result in increased emissions since the time of the last test used to establish the emission factor.

3. What are the key comments and what are our responses?

Comments were received both opposing and supporting the proposed 5-year periodic emissions testing requirements. Commenters that opposed the requirements noted that oxidizers are not used continuously in the flexible packaging industry but only when compliant coatings are not used and stated that testing does not show any evidence of degradation in thermal oxidizers. Commenters noted that degradation may occur when a catalytic oxidizer is used to control a process using silicon-containing coatings, but that a catalyst activity test would be more appropriate to determine performance. The EPA has reviewed these comments and is finalizing repeat emissions performance testing for catalytic oxidizers with the alternative to perform an annual catalyst activity test. The EPA is finalizing the periodic emissions performance test requirements for thermal oxidizers, as proposed. Both requirements can be found in 40 CFR 63.3360(a)(2).

Commenters suggested that periodic performance testing for re-establishment of emission factors, such as for reactive coatings, is not necessary in most cases and would be excessively burdensome and unnecessary, except if the product's formulation or its process conditions have changed in a way that would increase emissions. The EPA has reviewed the commenters concerns and agrees that repeat testing to re-establish emission factors for coatings used in the POWC industry every 5 years could be burdensome and is not finalizing this requirement in this action.

Commenters requested clarification that the first periodic emissions performance test can be conducted within either 3 years of promulgation of the final amendments or within 60 months of the previous test, whichever is later, to ensure that any facility that has recently conducted a performance test will have the full 5 years between tests. The EPA intended that performance tests recently performed (within 3 years of promulgation of the final amendments) can count towards the first periodic testing requirements. Commenters also requested clarification if state-required volatile organic compound (VOC) performance testing or HAP performance testing performed for another MACT can count towards this requirement. The EPA agrees that both testing for VOC destruction efficiency and HAP destruction efficiency for another subpart are appropriate substitutions for the periodic testing requirements in the POWC NESHAP because these tests will demonstrate ongoing performance of the control device. Both of these issues have been clarified in 40 CFR 63.3330(a)(2).

Commenters requested clarification that only control devices used to demonstrate compliance with the POWC NESHAP would need to be tested, and that VOC tests required by the state permitting authority could be used to meet the proposed requirements. The EPA agrees with the commenters that add-on control devices not used to demonstrate compliance with the POWC NESHAP (*i.e.,* those used to demonstrate compliance with new source performance standards (NSPS) or state VOC requirements) are not required to be tested under the POWC NESHAP amendments. The EPA also agrees that VOC tests required by the state permitting authority could be used to meet the POWC repeat testing requirements. The EPA's proposal was not intended to impose duplicative testing requirements. Regulatory text has been amended throughout the NESHAP to state that the requirements for add-on control devices are only for those used to demonstrate compliance with 40 CFR 63.3320, and that VOC tests required by state permitting authorities can be used to meet the repeat performance testing requirements.

For detailed comment summaries regarding the repeat testing provisions and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. What is the rationale for our final approach and final decisions for the periodic emissions testing requirement?

Although ongoing monitoring of operating parameters is required by the existing POWC NESHAP, as the control device ages over time, the destruction efficiency of the control device can be compromised due to various factors. These factors are discussed in more detail in the memorandum titled *Revised Periodic Testing of Control Devices Used to Comply with the Paper and Other Web Coating NESHAP,* in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2018–0416). After considering the comments discussed above and based on the need for vigilance in maintaining the control device equipment, the EPA is finalizing the requirement for periodic testing of thermal oxidizers once every 5 years and the alternative of annual catalyst activity tests for catalytic oxidizers.

F. Electronic Reporting

1. What did we propose?

The EPA proposed amendments to the POWC NESHAP to require owners and operators of POWC facilities to submit electronic copies of required performance test reports (40 CFR 63.3400(f)), performance evaluation reports (40 CFR 63.3400(g)), initial notifications (40 CFR 63.3400(b)), notification of compliance status (40 CFR 63.3400(e)), and semiannual compliance reports (40 CFR 63.3400(c)) through the EPA's Central Data Exchange (CDX) using CEDRI. A description of the electronic data submission process is provided in the proposal (at 84 FR 49403, September 19, 2019) and in the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* Docket ID Item No. EPA–HQ–OAR–2018–0416–0091. The proposed amendment replaces the previous rule requirement to submit the notifications and reports to the Administrator at the appropriate address listed in 40 CFR 63.13. This rule requirement does not affect submittals required by state air agencies as required by 40 CFR 63.13.

For the performance test reports required in 40 CFR 63.3400(f), the amendments proposed required that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website [4] at the time of the test be submitted in the format generated through the use of the ERT and that other performance test results be submitted in portable document format (PDF) using the attachment module of the ERT. Similarly, performance evaluation results of continuous monitoring systems (CMS)

[4] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

measuring relative accuracy test audit pollutants that are supported by the ERT at the time of the test must be submitted in the format generated through the use of the ERT and other performance evaluation results be submitted in PDF using the attachment module of the ERT.

For the proposed electronic submittal of initial notifications required in 40 CFR 63.3400(b), no specific form is available at this time, therefore, these notifications are required to be submitted in PDF using the attachment module of the ERT. For electronic submittal of notifications of compliance status reports required in 40 CFR 63.3400(e), it was proposed that the final semiannual report template discussed above, would also contain the information required for the notification of compliance status report.

For semiannual compliance reports required in 40 CFR 63.3400(c), the amendment proposed required that owners and operators use the final semiannual report template to submit information to CEDRI. The template will reside in CEDRI and was proposed to be used on and after 180 days past finalization of the amendments. The proposed template for these reports was included in the docket for public comment.[5]

Additionally, in the proposal, the EPA identified two broad circumstances in which electronic reporting extensions may be provided. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible. The EPA provided these potential extensions to protect owners and operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control.

2. What changed since proposal?

The EPA has changed the deadline to use the CEDRI semiannual reporting template to be 1 year after the template has been available in CEDRI, instead of the proposed 180 days after date of publication of the final rule. The EPA has also changed the electronic submittal of the notification of compliance status to be a PDF instead in the semiannual reporting template. No other changes have been made to the proposed requirement for owners and operators of POWC facilities to submit initial notifications, performance test reports, performance evaluation reports, and semiannual reports electronically using CEDRI.

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, believed that the proposed *force majeure* language in 40 CFR 63.3400(j) should be removed so there is no exemption from reporting due to *force majeure* events. As explained in detail in the response-to-comments document, 40 CFR 63.3400(j) does not provide an exemption to reporting, only a method for requesting an extension of the reporting deadline. The EPA has retained the proposed language in 40 CFR 63.3400(j) for the final rule.

Commenters expressed concern about potential inconsistencies between the POWC electronic reporting requirements and state requirements of paper copies of reports for VOC and title V compliance. Commenters asked for clarification that the electronic reporting requirements replace the POWC title V compliance reporting, including timing. The Agency does not agree with the commenter's suggestion concerning potential inconsistencies between state requirements for paper reporting and federal requirements for VOC and title V permit compliance. State requirements developed under the state's own authorities are separate and apart from federal requirements developed for this rule. As individual federal rules establish applicable requirements—including electronic reporting—title V programs bundle those individual requirements, except for adding appropriate periodic monitoring when necessary, without change. Therefore, title V and the individual rule's electronic reporting requirements are the same.

Commenters also asked for clarification that the transition to the new reporting methodology would apply to an entire reporting period instead of becoming effective in the middle of a reporting period, resulting in two different reports being prepared. The EPA's intent was not to require two different reports to be prepared for one reporting period. The EPA has clarified in this action that the reporting template should be used at the beginning of the first full reporting period after the template has been available in CEDRI for 1 year.

Commenters expressed concern regarding the electronic reporting template and asked for more time to meet with the EPA to develop and understand the spreadsheet. Commenters also provided feedback on the spreadsheet. The EPA agrees that more time is needed to develop the template and to work with stakeholders to understand how to use the spreadsheet. As such, the EPA is changing the compliance date for using the spreadsheet template to be 1 year after the final template is available in CEDRI. The EPA will work with stakeholders to develop the spreadsheet and to provide training on CEDRI and how to complete the spreadsheet. Because the EPA intends to work with stakeholders to update the template in the future, it has not placed an updated version of the template in the docket for this rulemaking.

For detailed comment summaries regarding electronic reporting and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. What is the rationale for our final approach and final decisions for the electronic reporting requirement?

The EPA is finalizing, as proposed, the requirement that owners or operators of POWC facilities submit electronic copies of initial notifications, notifications of compliance status, performance test reports, performance evaluation reports, and semiannual compliance reports using CEDRI. The EPA is finalizing that the deadline to use the CEDRI semiannual reporting template is 1 year after the template has been available in CEDRI. The EPA is finalizing that the electronic submittal of the notice of compliance status should be in pdf form instead of the semiannual reporting template. The EPA is also 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 usefulness of the data contained in those reports; is in keeping with current trends in data availability and transparency; will further assist in the protection of public health and the environment; will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and

[5] See *POWC_Electronic_Reporting_Template.xlsx,* available at Docket ID Item No. EPA–HQ–2018–0416–0165.

the EPA to assess and determine compliance; and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. For more information on the benefits of electronic reporting, see the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* Docket ID Item No. EPA–HQ–OAR–2018–0416–0165.

G. Temperature Sensor Validation

1. What did we propose?

As discussed in the preamble to the proposed rule (84 FR 49382, September 19, 2019), at 40 CFR 63.3350(e)(9), the original POWC NESHAP required facilities to conduct an electronic calibration of the temperature monitoring device every 3 months or, if calibration could not be performed, replace the temperature sensor. Facilities subject to the standard have explained to the EPA that they are not aware of a temperature sensor manufacturer that provides procedures or protocols for conducting electronic calibration of temperature sensors. Facilities have reported that because they cannot calibrate their temperature sensors, the alternative is to replace them every 3 months. Industry representatives explained that this is burdensome and requested that an alternative approach to the current requirement in 40 CFR 63.3350(e)(9) be considered.

The EPA proposed to modify 40 CFR 63.3350(e) to allow multiple alternative approaches to temperature sensor validation. The first alternative allows the use of a National Institute of Standards and Technology (NIST) traceable temperature measurement device or simulator to confirm the accuracy of any temperature sensor placed into use for at least one quarterly period, where the accuracy of the temperature measurement must be within 2.5 percent of the temperature measured by the NIST traceable device or 5 degrees Fahrenheit, whichever is greater. The second alternative allows the temperature sensor manufacturer to certify the electrical properties of the temperature sensor. The third alternative codifies the common practice of replacing temperature sensors quarterly. The fourth alternative allows for the permanent installation of a redundant temperature sensor as close as practicable to the process temperature sensor. The redundant sensors must read within 25 degrees Fahrenheit of each other for thermal and catalytic oxidizers.

2. What changed since proposal?

Comments were received on the temperature sensor validation amendments requesting clarification on the requirements. The EPA has clarified the requirements, as discussed below, in the final rulemaking.

3. What are the key comments and what are our responses?

Commenters identified inconsistencies between 40 CFR 63.8 and the POWC NESHAP. Specifically, the commenters noted that the proposed amendments require ''validation'' whereas 40 CFR 63.8 requires ''calibration.'' The EPA proposed to remove the term ''calibration'' from the POWC NESHAP because temperature sensors such as thermocouples do not typically have calibration procedures. To fix this inconsistency, the EPA is finalizing changes to Table 2 for the 40 CFR 63.8(c)(3) entry to direct affected sources to 40 CFR 63.3350(e)(10)(iv) for temperature sensor validation procedures in lieu of calibration requirements. Additionally, the EPA is finalizing changes to Table 2 for the 40 CFR 63.8(d)(1)–(2) entry to direct affected sources to 40 CFR 63.3350(e)(5) for continuous parameter monitoring system (CPMS) quality control procedures and to the 40 CFR 63.8(d)(3) entry to state that it does not apply, because 40 CFR 63.3350(e)(5) specifies the program of corrective action. Commenters also questioned whether Table 2 requires a notification of performance evaluation for temperature sensors under 40 CFR 63.8(e)(2). The EPA is also finalizing changes to Table 2 to clarify notifications are not required for temperature sensor validations.

Commenters provided background information on thermocouple accuracy and calibrations and requested that the EPA adopt mechanical validations as an option to verify temperature sensor operation. These mechanical validations include visually inspecting the head and wiring of the device and monitoring the function/non-function of the device. Commenters explained that this type of validation is appropriate because thermocouples typically fail instead of drifting and becoming less accurate. In response to this comment, the EPA added mechanical validations as an option for verifying temperature sensor operation in the final rule.

Similarly, commenters requested that the requirement in 40 CFR 63.3350(e)(10)(vi) for quarterly inspection of all components for integrity and all electrical connections for continuity, oxidization, and galvanic corrosion be removed. Commenters noted that this requirement is redundant because electronic monitoring systems are designed to alert facility personnel if a signal from the temperature sensor is interrupted. The commenters suggested that the EPA simplify the requirement to include only a quarterly inspection of thermocouple components for proper connection and integrity and clarify that any such inspection only applies to the temperature sensor and not the entire oxidation system. The EPA did not intend to create redundant burden with the proposed requirements. The Agency agrees with the commenter and is requiring in the final rule a quarterly inspection of the thermocouple components or to continuously operate an electronic monitoring system designed to notify personnel if the temperature sensor signal is interrupted at 40 CFR 63.3350(e)(10)(vi).

Commenters supported the proposed options for testing the accuracy of temperature sensors and requested clarification on whether the use of dual-sensor thermocouples or the use of multiple sensors in the oxidizer combustion chamber would meet the proposed requirements. The Agency has added a new subsection to clarify that these options would meet the finalized requirements. Additionally, the EPA reviewed the proposed temperature sensor validation regulatory text and determined that, as proposed, it was vague and sometimes inconsistent. For example, the proposed amendments said to validate the temperature sensor quarterly by following the applicable procedures in the manufacturer's owner's manual. The EPA received additional information and found that owner's manuals specified annual inspection procedures. Also as proposed, facilities would need to quarterly validate by permanently installing a redundant temperature sensor, which was vague and confusing to affected sources. The EPA has amended 40 CFR 63.3350(e)(10)(iv) to clarify each option for verifying that a temperature sensor is operating properly and how frequently to perform the verification. The EPA is finalizing the following verification options:

- Semiannually compare the temperature sensor to a NIST traceable temperature measurement device;
- annually validate the temperature sensor by following applicable mechanical and electrical validation procedures in the manufacturer's owner's manual;
- annually request the temperature sensor manufacturer to certify or re-certify electromotive force;

• annually replace the temperature sensor with a new certified temperature sensor;

• permanently install a redundant temperature sensor as close as practicable to the process temperature sensor; or

• permanently install a temperature sensor with dual sensors to account for the possibility of failure.

One commenter requested that the required accuracy of 2.5 percent at 40 CFR part 63.3350(e)(10)(iv)(A) apply equally at 40 CFR part 63.3350(e)(10)(iv)(E) instead of 25 degrees Fahrenheit. The commenter was not aware of any reason to specify different levels of accuracy between the proposed validation methods. With this final action, the EPA has changed the 25 degrees Fahrenheit requirement in 40 CFR 63.3350(e)(10)(iv)(E) to be 2.5 percent to be consistent with the requirements of 40 CFR 63.3350(e)(10)(iv)(A).

Commenters also requested that the requirement to calibrate the chart recorder or data logger in section 40 CFR 63.3350(e)(10)(i) be removed because it is not feasible to calibrate either device, and most facilities now use an electronic signal to record temperature data for compliance purposes, not a chart recorder. The EPA agrees and has removed this statement from the regulatory text.

For detailed comment summaries regarding the temperature sensor validation requirements and corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. What is the rationale for our final approach and final decisions for the temperature senor calibration requirement?

The EPA proposed modifications to 40 CFR 63.3350(e) to allow multiple alternative approaches to temperature sensor calibration to address concerns raised by affected facilities prior to proposal. After reviewing the public comments received, the Agency is clarifying the requirements in this final rulemaking, as discussed above. These amendments ensure that the temperature sensors are operating properly to demonstrate continuous compliance with the emission standards.

H. Operating Parameter Clarification

1. What did we propose?

The EPA proposed to clarify language in 40 CFR 63.3370 which previously implied all deviations in operating parameters result in non-compliance with the standard. Specifically, the EPA proposed at 40 CFR 63.3370(k)(5) to clarify that each 3-hour average operating parameter that is outside of the operating limit range established during a performance test should be assumed to have zero control and all HAP must be assumed to be emitted for that period in the monthly compliance calculation.

2. What changed since proposal?

The EPA is finalizing the clarification that a deviation from a 3-hour average operating parameter is not a deviation of the standard, unless the emission limitations for the month in which the deviation occurred are exceeded. Based on public comment, the EPA has also added the option in 40 CFR 63.3370(k)(5) for a facility to develop a control destruction efficiency curve for use in determining compliance instead of assuming zero control for all deviations. The EPA has also added minor clarifications as discussed below.

3. What are the key comments and what are our responses?

Commenters supported the EPA's proposed clarification that deviations in operating parameters are not automatically indicative of non-compliance with the POWC standard. Commenters also stated that a deviation from a 3-hour operating limit does not indicate non-compliance because the standard is based on a monthly average. The EPA agrees that the intent of the clarification was for operating parameters of add-on control devices only, as the requirement was placed in 40 CFR 63.3370(k)(5) which only applies to add-on control devices and not coating lines using compliant coatings.

Several commenters disagreed with the EPA's proposal that each 3-hour average operating parameter that is outside of the operating limit range established during a performance test should be assumed to have ''zero control.'' Commenters asserted that there was no scientific basis for this assumption and indicated that if a performance test performed well above the minimum required destruction efficiency, dropping below the established temperature may have no effect on the destruction efficiency. Commenters recommended that the EPA allow facilities to develop a control curve based on test data or engineering data that documents the level of control achieved at temperatures lower than the performance test established temperature. The EPA has considered the commenters' suggestion and have added the option to develop a control curve for add-on control devices at 40 CFR 63.3360(e)(4). Facilities must work with their permitting authority to develop the control curve.

For detailed comment summaries regarding the operating parameter clarification and responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. What is the rationale for our final approach and final decisions for the operating parameter clarification?

Operating parameters were established in the original POWC NESHAP to aid in determining compliance, but operating parameters were not intended to constitute a violation of the emission standard. For example, one 3-hour average regenerative thermal oxidizer firebox temperature below the setpoint established during the stack test would not necessarily indicate a violation of the POWC emission standard for the month, but it is a deviation of the operating parameter limit. The EPA is finalizing, as proposed, language to clarify this distinction with minor changes based on public comment.

I. IBR Under 1 CFR Part 51 for the POWC NESHAP

1. What did we propose?

In accordance with requirements of 1 CFR 51.5, the EPA proposed to incorporate by reference the following voluntary consensus standards (VCS) into 40 CFR 63.14:

• ASTM D2369–10 (Reapproved 2015)[e], Standard Test Method for Volatile Content of Coatings, IBR approved for 40 CFR 63.3360(c).

• ASTM D2697–03 (Reapproved 2014), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, IBR approved for 40 CFR 63.3360(c).

• ASTM 3960–98, Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings, IBR approved for 40 CFR 63.3360(d).

• ASTM D6093–97, (Reapproved 2016), Standard Test Method for Percent

Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer, IBR approved for 40 CFR 63.3360(c).

- ASTM D2111–10 (Reapproved 2015), Standard Test Methods for Specific Gravity of Halogenated Organic Solvents and Their Admixtures, IBR approved for 40 CFR 63.3360(c).
- ASTM D1963–85 (Reapproved 1996), Standard Test Method for Specific Gravity of Drying Oils, Varnishes, Resins, and Related Materials at 25/25°C (Withdrawn 2004), IBR approved for 40 CFR 63.3360(c).

2. What changed since proposal?

No changes to the proposed IBR were made since publication of the proposal (84 FR 49405, September 19, 2019).

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 final approach and final decisions for the IBR under 1 CFR part 51?

In accordance with requirements of 1 CFR 51.5, the EPA is finalizing, as proposed, the IBR of the documents listed in section IV.I.1 of this preamble.

J. Technical and Editorial Changes

1. Removal of OSHA-Defined Carcinogens Reference

a. What did we propose?

The EPA proposed to amend sections 40 CFR 63.3360(c)(1)(i) and (3), which describe how to demonstrate initial compliance with the emission limitations using the compliant material option, to remove references to OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4). The reference to OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) is intended to specify which compounds must be included in calculating total organic HAP content of a coating material if they are present at 0.1 percent or greater by mass. The Agency proposed to remove this reference because 29 CFR 1910.1200(d)(4) has been amended and no longer readily defines which compounds are carcinogens. The EPA proposed to replace the references to OSHA-defined carcinogens and 29 CFR 1910.1200(d)(4) with a list (in proposed new Table 3 to Subpart JJJJ of Part 63—List of Hazardous Air Pollutants That Must Be Counted Relative to Determining Coating HAP Content if Present at 0.1 Percent or More By Mass) of those organic HAP that must be included in calculating total organic HAP content of a coating material if they are present at 0.1 percent or greater by mass.

b. What changed since proposal?

The EPA has changed the approach for the removal of the reference to 29 CFR 1910.1200(d)(4) based on public comment. The EPA is not finalizing the proposed Table 3 to 40 CFR part 63, subpart JJJJ, and is finalizing a reference to appendix A to 29 CFR 1910.1200 where 29 CFR 1910.1200(d)(4) was previously referenced.

c. What are the key comments and what are our responses?

Multiple commenters asked that the EPA delete the proposed Table 3 to 40 CFR part 63, subpart JJJJ, and modify the proposed methodology for determining the HAP content of coatings. Commenters pointed out that 29 CFR 1910.1200(d)(4) was not a list, but a list of references for manufacturers and importers to use to classify chemicals. Commenters asked that the POWC NESHAP reference the current OSHA Safety Data Sheets (SDS) rule (29 CFR 1910.1200) instead of adding a static list in the form of the proposed Table 3 to 40 CFR part 63, subpart JJJJ. The EPA agrees the commenters' suggestion is a more-streamlined solution for updating the OSHA reference and is not finalizing the table in the final rule and has added the reference to appendix A to 29 CFR 1910.1200.

For detailed comment summaries regarding the OSHA-defined carcinogens reference and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

The EPA has reviewed the comments received regarding the removal of the OSHA-defined carcinogens language and agrees that appendix A to 29 CFR 1910.1200 is an appropriate replacement for the outdated 29 CFR 1910.1200(d)(4) reference. Given that the OSHA language that the POWC proposal sought to replace is in appendix A, for the final POWC amendment the EPA is finalizing the regulatory text at 40 CFR 63.3360(c)(1)(i) to be as follows:

(i) Include each organic HAP determined to be present at greater than or equal to 0.1 mass percent for Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in section A.6.4 of appendix A to 29 CFR 1910.1200 and greater than or equal to 1.0 mass percent for other organic HAP compounds.

2. Clarification of Compliance Demonstration Options

a. What did we propose?

The EPA proposed an introductory paragraph and a new subsection to clarify the compliance demonstration requirements in 40 CFR 63.3370. As originally promulgated, it was not clear that compliance can be demonstrated based on individual web coating lines, groups of web coating lines, or all of the web coating lines located at an affected facility. An introductory paragraph to 40 CFR 63.3370 was proposed to clarify the intent that compliance can be demonstrated across the web coating lines in a facility by grouping them or treating them individually or a combination of both. Additionally, a new subsection 40 CFR 63.3370(r) was proposed to clarify that compliance with the subpart can be demonstrated using a mass-balance approach. While the compliance calculations included in 40 CFR 63.3370(b)–(p) are thorough, there are instances where variables in the equations are not needed, resulting in confusion by the regulated facilities and the regulating agencies as to what is required to demonstrate compliance. The mass-balance approach proposed in 40 CFR 63.3370(r) clarifies the original intent of the rule.

b. What changed since proposal?

The EPA received comments suggesting minor edits to the proposed language regarding the mass-balance compliance demonstration approach and has incorporated these edits, as appropriate, as discussed below. No changes were made to the introductory paragraph to 40 CFR 63.3370 and the EPA is finalizing this section, as proposed, in this action.

c. What are the key comments and what are our responses?

Commenters expressed support for the proposed clarification that compliance can be demonstrated across multiple lines. Commenters also felt that this clarification reduces the potential for inconsistent regulatory interpretations by sources and permitting agencies and makes the POWC NESHAP consistent with other coating rules. The EPA acknowledges the commenters' support and is finalizing the clarification, as proposed.

Commenters noted that the EPA incorrectly stated procedures for demonstrating compliance by mass-balance at 40 CFR 63.3370(r)(1)—the mass of HAP emitted during the month should be divided by the mass applied according to any of the procedures listed in 40 CFR 63.3320(b)(1)–(3). Commenters also suggested additional regulatory text revisions to be consistent with proposed edits to other sections. The EPA has reviewed these comments and agrees with the commenters suggested edits to correct the mass-balance calculation and has done so in this rulemaking.

For detailed comment summaries regarding the clarification of the compliance demonstration options and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

The EPA proposed, and is finalizing, amendments to the regulatory text to clarify that compliance can be demonstrated based on individual web coating lines, groups of web coating lines, or all of the web coating lines located at an affected facility. The EPA is finalizing corrections to the mass balance calculation. Additionally, the EPA proposed, and is finalizing, a new subsection in 40 CFR 63.3370(r) to clarify the intent of the rule as a mass-balance approach of demonstrating compliance. The clarification to the compliance demonstration options were made to help reduce confusion among regulated entities and regulating authorities.

3. Clarification of Coating Materials Definition

a. What did we propose?

The EPA proposed to revise the coating material definition in 40 CFR 63.3310 to clarify that coating materials are liquid or semi-liquid materials. Additionally, the EPA proposed to revise the web coating line definition to clarify that coating materials are liquid or semi-liquid.

b. What changed since proposal?

The EPA has clarified in the definition of coating materials to include hot melt adhesives and other hot melt materials.

c. What are the key comments and what are our responses?

Commenters supported the EPA's proposed clarifications to the definition of coating materials and further suggested that the EPA revise the definition to ensure that it is not incorrectly interpreted to exclude hot melt adhesives or coatings. The EPA agrees with the commenters and hot melt materials are included in the revised regulatory text in 40 CFR 63.3310 to reflect this.

For detailed comment summaries regarding the coating materials definition and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

The EPA is finalizing, as proposed, revisions to the coating material definition in 40 CFR 63.3310 to clarify that coating materials are liquid or semi-liquid materials and revisions to the web coating line definition to clarify that coating materials are liquid or semi-liquid. The EPA is also finalizing the clarification that hot melt materials are included in the definition and that vapor deposition and dry abrasive materials deposited onto a coated surface area are excluded from the definition. These revisions will improve regulatory clarity by confirming that the weight of solid materials should not be accounted for in the compliance demonstration calculations, and that vapor-deposition coating is not covered by this subpart.

4. Addition of Web Coating Line Usage Threshold

a. What did we propose?

The EPA proposed to add a usage threshold to 40 CFR 63.3300(h), similar to that in 40 CFR part 63, subpart OOOO, that requires a web coating line that coats both paper and another substrate, such as fabric, to comply with the subpart that corresponds to the predominate activity conducted. The EPA proposed to define predominant activity to be 90 percent of the mass of substrate coated during the compliance period. For example, a web coating line that coats 90 percent or more of a paper substrate, and 10 percent or less of a fabric substrate, would be subject to this subpart and not 40 CFR part 63, subpart OOOO.

b. What changed since proposal?

Since proposal, the EPA has clarified that the predominant activity should be determined on a calendar year basis.

c. What are the key comments and what are our responses?

Commenters supported usage thresholds for converting lines that coat both paper and another substrate. Commenters noted that the usage of the term ''affected source'' in the proposal appears to be inconsistent with the example because the POWC NESHAP is the collection of all web coating lines. Additionally, commenters thought the term compliance period could be interpreted to require a facility performing different types of coating to determine which NESHAP applies on a monthly basis. Commenters requested that the EPA clarify these issues. The EPA agrees with the commenters and have edited the regulatory text to clarify that predominant activity must be determined on a calendar year basis.

For detailed comment summaries regarding the web coating line threshold and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

The EPA reviewed the public comments and added clarifying language to the proposed usage threshold. This language was added to promote regulatory certainty and reduce burden from sources that could be subject to multiple NESHAP.

5. Addition of Printing Activity Exemption

a. What did we propose?

The EPA proposed to add a printing activity exemption to 40 CFR 63.3300(i) which allows for modified web coating lines already subject to this subpart to continue to demonstrate compliance with this subpart, in lieu of demonstrating compliance with 40 CFR part 63, subpart KK (Printing and Publishing NESHAP).

b. What changed since proposal?

The EPA has clarified the language in the printing activity exemption to allow for existing and modified lines to be

subject to the POWC NESHAP in lieu of 40 CFR part 63, subpart KK.

c. What are the key comments and what are our responses?

Multiple commenters supported the EPA's proposed printing activity exemption to allow for modified POWC lines already subject to the POWC NESHAP to continue to demonstrate compliance with 40 CFR part 63, subpart JJJJ in lieu of demonstrating compliance with 40 CFR part 63, subpart KK. Commenters suggested that this exemption also apply to existing sources as well as modified sources (*e.g.,* for POWC web coating lines that already have a product and packaging rotogravure print station and/or a wide-web flexographic print station). The commenter noted that, as written, if during a single month the line exceeds 5 percent of the total mass of materials applied at the print station, the line applicability would permanently change to the Printing and Publishing NESHAP. The EPA agrees with the commenters and has clarified the regulatory text in this action, as appropriate.

For detailed comment summaries regarding the printing activity exemption and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

In this rulemaking, the EPA is finalizing a printing activity exemption to 40 CFR 63.3300(i) which allows for modified and existing web coating lines already subject to this subpart to continue to demonstrate compliance with this subpart, in lieu of demonstrating compliance with 40 CFR part 63, subpart KK (*i.e.,* the Printing and Publishing NESHAP). This exemption will reduce regulatory burden without resulting in increased emissions.

6. Clarification of Testing Requirements

a. What did we propose?

The EPA proposed to remove the ''by compound'' statement in 40 CFR 63.3320(b)(4) to clarify that the standard is 20 parts per million by volume (ppmv) for the total of organic HAP emitted, not 20 ppmv for each individual HAP emitted. This is consistent with the test methods used in this subpart, which test for total HAP concentration.

b. What changed since proposal?

The EPA is finalizing the removal of ''by compound'' in 40 CFR 63.3220(b)(4) to clarify that the 20 ppmv standard applies to the total of organic HAP emitted, not to each individual HAP. As part of our review, the EPA found four additional instances of ''by compound'' in 40 CFR 63.3370(a)(5), (f), (f)(3), and (f)(3)(iii) that also needed to be removed.

c. What are the key comments and what are our responses?

Commenters supported the EPA's proposal to remove ''by compound'' in 40 CFR 63.3220(b)(4) to clarify that the 20 ppmv standard applies to the total of organic HAP emitted, not to each individual HAP.

d. What is the rationale for our final approach?

The removal of ''by compound'' makes the POWC NESHAP consistent with the test methods referenced in the subpart, as they test for total HAP concentration, not individual HAP compounds.

7. Applicability to Sources Using Only Non-HAP Coatings

a. What did we propose?

The EPA requested comment on changing the applicability of the POWC NESHAP to exclude sources that only use non-HAP coatings but are located at a major source to reduce regulatory burden. As identified during the development of the risk modeling input file and discussed in section III.C of the preamble to the proposed rule (84 FR 49406, September 19, 2019), some facilities that utilize only non-HAP coatings are subject to the POWC NESHAP because they perform web coating operations and are a major source because of non-POWC source category emissions. For example, a non-HAP coating line used to produce paper towel cores may be located at an integrated pulp and paper facility that is a major source because of emissions from the pulping operations. This facility would be required to comply with the requirements of 40 CFR part 63, subpart JJJJ, even though the coatings used contain no HAP, and, therefore, no HAP are emitted from the web coating lines.

b. What changed since proposal?

The EPA received supportive comments regarding the change of applicability to sources using only non-HAP coatings. The Agency has reviewed the public comments and, instead of changing the applicability of the subpart, is finalizing an exemption for reporting requirements for these sources.

c. What are the key comments and what are our responses?

Commenters supported the EPA's proposal to reduce regulatory burden by excluding sources that are located at a major source of HAP but do not use coatings that contain HAP for the POWC emission sources. Commenters stated that the change will reduce regulatory burden without increasing emissions and could incentivize sources to convert to non-HAP coatings to avoid applicability of the POWC NESHAP, resulting in emissions reductions. Commenters further suggested that the exclusion is a logical step under the EPA's efforts to reduce regulatory burden and is similar in key aspects to the rulemaking to rescind the EPA's ''once in, always in'' policy. Commenters suggested that the EPA clarify that all of the subject coating lines at the facility must use non-HAP coatings to qualify for the exclusion. The EPA has reviewed these comments and has added regulatory text exempting sources that only use non-HAP coatings on all of the subject web coating lines at the facility from on-going compliance reporting requirements.

For detailed comment summaries regarding applicability to sources only using non-HAP coatings and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

The EPA requested comment on changing the applicability of sources using only non-HAP coatings and received comments supporting the change. The EPA is finalizing an exemption to on-going reporting requirements for these sources as it will reduce regulatory burden without increasing emissions.

8. Oxidizer Temperature Monitoring

a. What did we propose?

The EPA proposed to add language to recognize that thermal oxidizers can demonstrate compliance with the standard as long as the 3-hour average firebox temperature does not drop lower

than 50 degrees Fahrenheit below the average combustion temperature established during the performance test to promote consistency between the Pressure Sensitive Tape and Label Surface Coating Operations NSPS (40 CFR part 60, subpart RR) and the POWC NESHAP, as well as to account for temperature swings due to startup and/or shutdown of web coating lines.

b. What changed since proposal?

The EPA has made minor clarifications to the regulatory text to promote consistency throughout the subpart and has added similar language for catalytic oxidizers.

c. What are the key comments and what are our responses?

Commenters were supportive of the EPA's proposed language for thermal oxidizers and requested that it be included for catalytic oxidizers as well. Additionally, commenters noted that the Pressure Sensitive Tape and Label Surface Coating Operations NSPS allows for setting the minimum temperature drop across the catalyst bed at 80 percent of the average temperature difference during the most recent performance test and requested that this language be added to promote consistency between the two rules. The Agency has reviewed the commenters suggestions and agree that it is appropriate to add the temperature language for catalytic oxidizers. To ensure complete combustion, the EPA also added a requirement that the catalyst's minimum temperature must always be 50 degrees Fahrenheit above the catalyst's ignition temperature.

Commenters also suggested edits to promote consistency throughout the subpart as it relates to the temperature language. The EPA has reviewed these suggestions and made edits to the regulatory text in this action, as appropriate.

For detailed comment summaries regarding the oxidizer temperature monitoring requirements and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

The EPA proposed to add language to recognize that thermal oxidizers can demonstrate compliance with the standard as long as the 3-hour average firebox temperature does not drop lower than 50 degrees Fahrenheit below the average combustion temperature established during the performance test to promote consistency between the Pressure Sensitive Tape and Label Surface Coating Operations NSPS and the POWC NESHAP, as well as to account for temperature swings due to startup and/or shutdown of web coating lines. After reviewing the public comments, the EPA has added the same requirements to catalytic oxidizers. In addition, the EPA has added language similar to that in the Pressure Sensitive Tape and Label Surface Coating Operations NSPS to allow for setting the minimum temperature drop across the catalyst bed at 80 percent of the average temperature difference during the most recent performance test. To ensure complete combustion, the EPA also added a requirement that the catalyst's minimum temperature must always be 50 degrees Fahrenheit above the catalyst's ignition temperature.

9. Compliance Report Content

a. What did we propose?

The EPA proposed new reporting requirements at 40 CFR 63.3400(c)(2) that would require facilities to record data for failures to meet an applicable standard, estimate the quantity of each regulated pollutant over any emission limit and a description of the method used, and document any actions taken to minimize emissions.

b. What changed since proposal?

The EPA has revised the compliance report content requirements in 40 CFR 63.3400(c)(2) to clarify what should be reported.

c. What are the key comments and what are our responses?

Commenters noted that the new reporting requirements should be eliminated because they go beyond the General Provisions at 40 CFR 63.10 and, because compliance is determined monthly, short deviations are not likely to cause excess emissions. Commenters further noted that the proposed additions are not relevant to a rule where compliance is not demonstrated on a short-term basis. The EPA has reviewed the commenters concerns and agree that the language is not appropriate for 40 CFR part 63, subpart JJJJ. The EPA has revised the requirements in 40 CFR 63.3400(c)(2) to clarify what is required to be reported and has also revised the requirements in 40 CFR 63.3410(c) to clarify what records should be maintained.

Additionally, while the EPA was reviewing the report content requirements, it became clear that the requirements were confusing as to what should be reported for facilities using compliant coatings versus facilities using add-on controls. The EPA has clarified that 40 CFR 63.3400(c)(2)(v) applies to facilities using only compliant coatings (*i.e.,* those that do not use a CMS). The EPA also clarified that 40 CFR 63.3400(c)(2)(vi) applies to facilities that have add-on control devices (*i.e.,* those that use a CPMS or a continuous emission monitoring system). These amendments should improve regulatory clarity.

For detailed comment summaries regarding compliance report content and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

The EPA proposed new reporting requirements at 40 CFR 63.3400(c)(2) that would require facilities to record data for failures to meet an applicable standard, estimate the quantity of each regulated pollutant over any emission limit and a description of the method used, and document any actions taken to minimize emissions to be consistent with recent RTR rulemakings. After reviewing the comments received during the public comment period, as well as the regulatory language, it was determined that these requirements were not appropriate for 40 CFR part 63, subpart JJJJ because compliance is demonstrated on a monthly basis and therefore these requirements are not being finalized. In response to comments, amendments were added to the compliance report contents section to clarify what should be reported and by whom.

10. Other Amendments

The following additional changes were proposed that address technical and editorial corrections:

- Revised the references to the other NESHAP in 40 CFR 63.3300 to clarify the appropriate subparts;
- revised 40 CFR 3350(c) to clarify that bypass valves on always-controlled work stations should be monitored;
- revised 40 CFR 63.3350(e)(4) to clarify 3-hour averages should be block averages, consistent with the requirements in Table 1 to Subpart JJJJ of Part 63;

• revised the monitoring requirements section in 40 CFR 63.3360 to clarify what constitutes representative conditions;

• revised the recordkeeping requirements section in 40 CFR 63.3410 to include the requirement to show continuous compliance after effective date of regulation;

• revised the terminology in the delegation of authority section in 40 CFR 63.3420 to match the definitions in 40 CFR 63.90;

• revised the General Provisions applicability table (Table 2 to Subpart JJJJ of Part 63) to provide more detail and to make it align with those sections of the General Provisions that have been amended or reserved over time; and

• renumbered the equations throughout the subpart for regulatory clarity.

No comments were received on these other amendments and, therefore, the EPA is finalizing them as proposed.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

The POWC source category includes any facility that is located at a major source and is engaged in the coating of paper, plastic film, metallic foil, and other web surfaces. All the coating lines at a subject facility are defined as one affected source. Any new source means any affected source for which construction or reconstruction was commenced after the date the EPA first proposed regulations establishing a NESHAP applicable to the source (*i.e.,* for the POWC source category, September 13, 2000). An existing source means any source other than a new source. Generally, an additional line at an existing facility is considered part of the existing affected source. New affected sources are new lines installed at new facilities or at a facility with no prior POWC operations.

There are currently 168 facilities in the United States that are subject to the POWC NESHAP. The EPA is aware of one new affected source that is under construction that will be subject to the POWC NESHAP in the future. The EPA is not aware of any other facilities that are under construction or are planned to be constructed which would be considered ''new facilities'' under the POWC NESHAP.

B. What are the air quality impacts?

At the current level of control, estimated emissions of total HAP are approximately 3,870 tpy. Compared to pre-MACT levels, this represents a significant reduction of HAP for the category. When the POWC NESHAP was finalized in 2002, the EPA estimated the annual baseline HAP emissions from the source category to be approximately 42,000 tpy (67 FR 72331, December 4, 2002).

The amendments will require all 168 major sources with equipment subject to the POWC NESHAP to operate without the SSM exemption. Eliminating the SSM exemption will reduce emissions by requiring facilities to meet the applicable standard during SSM periods; however, the EPA is unable to quantify the specific emission reductions associated with eliminating the exemption. The requirement for repeat performance testing once every 5 years for thermal oxidizers and the alternative of annual catalyst activity testing for catalytic oxidizers will ensure that the control device is operating correctly and may reduce emissions, but no method for accurately estimating such emissions reduction is available.

Indirect or secondary air emissions impacts are impacts that would result from the increased electricity usage associated with the operation of control devices (*i.e.,* increased secondary emissions of criteria pollutants from power plants). Energy impacts consist of the electricity and steam needed to operate control devices and other equipment that would be required under this final rule. The EPA expects no secondary air emissions impacts or energy impacts from this rulemaking.

For further information, see the memorandum titled *Revised Cost, Environmental, and Energy Impacts of Regulatory Options for the Paper and Other Web Coatings Risk and Technology Review,* in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0416).

C. What are the cost impacts?

Startup and shutdown are considered normal operations for most facilities subject to the POWC NESHAP. The EPA does not believe removing the SSM exemption will result in additional incurred costs.

As discussed in detail in the memorandum titled *Revised Cost, Environmental, and Energy Impacts of Regulatory Options for the Paper and Other Web Coatings Risk and Technology Review,* it is estimated that 65 oxidizers will have to perform repeat performance testing. Fifty eight of these 65 are thermal oxidizers, and 3 are catalytic oxidizers. For costing purposes, it was assumed that repeat emissions performance testing will be performed every 5 years on the thermal oxidizers, and annual catalyst activity testing will be conducted on the catalytic oxidizers. The estimated cost for an inlet-outlet EPA Method 25A performance test (with electronic reporting of results) is $28,000 per test and the estimated cost for annual catalyst activity testing is $1,000, for an estimated nationwide cost of $1,750,000 (2018$) every 5 years. The electronic reporting requirement is not expected to require any additional labor hours to prepare, compared to the paper semi-annual compliance reports that are already prepared. Therefore, the costs associated with the electronic reporting requirement are zero.

D. What are the economic impacts?

The economic impact analysis is designed to inform decision makers about the potential economic consequences of a regulatory action. To assess the potential impact, the largest cost expected to be experienced in any one year is compared to the total sales for the ultimate owner of the affected facilities to estimate the total burden for each facility.

For the final revisions to the POWC NESHAP, the 168 affected facilities are owned by 91 different parent companies, and the total costs associated with the final requirements range from less than 0.000001 to 3 percent of annual sales revenue per ultimate owner. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

The EPA also prepared a small business screening assessment to determine whether any of the identified affected entities are small entities, as defined by the U.S. Small Business Administration. Twenty-nine of the facilities potentially affected by the final revisions to the POWC NESHAP are small entities. However, the costs associated with the final requirements for the affected small entities range from 0.0003 to 3 percent of annual sales revenues per ultimate owner; there is one facility with costs of 1.4 percent and one facility with costs of 3 percent of annual sales revenues per ultimate owner. Therefore, there are no significant economic impacts on a substantial number of small entities from these final amendments.

E. What are the benefits?

Because these final amendments are not considered economically significant, as defined by Executive Order 12866, and because we did not estimate emission reductions associated with the

final revisions, the EPA did not estimate any benefits from reducing emissions.

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 source category, the EPA performed a demographic analysis, which is an assessment of risk to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, the EPA evaluated the distribution of HAP-related cancer and noncancer risk from the POWC source category across different social, demographic, and economic groups within the populations living near facilities identified as having the highest risks.[6] The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Paper and Other Web Coating Facilities,* available in the docket for this action (Docket ID Item No. EPA–HQ–OAR–2018–0416–0088). These results, for various demographic groups, are based on the estimated risk from actual emissions levels for the population living within 50 km of the facilities.

The results of the POWC source category demographic analysis indicate that emissions from the source category expose approximately 4,300 people to a cancer risk at or above 1-in-1 million and no one is exposed to a chronic noncancer TOSHI greater than 1. The specific demographic results indicate that the percentage of the population potentially impacted by emissions is greater than its corresponding national percentage for the white population (86 percent for the source category compared to 62 percent nationwide) and for the below-poverty-level population (17 percent compared to 14 percent nationwide).

The risks due to HAP emissions from this source category are low for all populations. Furthermore, the EPA does not expect this final rule to achieve significant reductions in HAP emissions. Therefore, the EPA concludes that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. However, this final rule will provide additional benefits to these demographic groups by improving the monitoring, compliance, and implementation of the NESHAP.

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 results of the POWC source category demographic analysis indicate that emissions from the source category expose approximately 4,300 people to a cancer risk at or above 1-in-1 million and no one is exposed to a chronic noncancer TOSHI greater than 1. The distribution of the population with risks above 1-in-1 million is 20 percent for ages 0 to 17, 62 percent for ages 18 to 64, and 17 percent for ages 65 and up. Children ages 0 to 17 constitute 23 percent of the population nationwide. Therefore, the analysis shows that actual emissions from 40 CFR part 63, subpart JJJJ facilities have a slightly smaller impact on children ages 0 to 17. This action's health and risk assessments are contained in sections III and IV of the preamble to the proposed rule and further documented in the risk report titled *Residual Risk Assessment for the Paper and Other Web 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–2018–0416).

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

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

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 proposed rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1951.09, OMB Control No. 2060–0511. 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.

The POWC NESHAP applies to existing facilities and new POWC facilities. In general, all NESHAP standards require initial notifications, notifications of compliance status, performance tests, performance evaluation reports, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP. This information is being collected to assure compliance with 40 CFR part 63, subpart JJJJ.

Respondents/affected entities: POWC facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart JJJJ).

Estimated number of respondents: 170.

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 17,300 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $2,735,000 (per year), includes $765,000 annualized capital and operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to

[6] 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 2 times the poverty level, and linguistically isolated people.

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.

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. The small entities subject to the requirements of this action and the annualized costs associated with the final requirements in this action for the affected small entities are described in section V.D above.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538. 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. It will not have substantial direct effects on tribal governments, 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. No tribal governments own facilities subject to the NESHAP. 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 risks 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 and IV of this preamble and further documented in the risk report titled *Residual Risk Assessment for the Paper and Other Web 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–2018–0416).

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 is finalizing the following six VCS as alternatives to EPA Method 24 and is incorporating them by reference for the first time in the finalized amendments:

- ASTM D2369–10 (Reapproved 2015)[e], ''Standard Test Method for Volatile Content of Coatings.'' This test method describes a procedure used for the determination of the weight percent volatile content of solvent-borne and waterborne coatings.
- ASTM D2697–03 (Reapproved 2014), ''Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings.'' This test method is applicable to the determination of the volume of nonvolatile matter in coatings.
- ASTM D3960–98, ''Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings.'' This test method is used for the measurement of the VOC content of solvent borne and waterborne paints and related coatings. This method is an acceptable alternative to EPA Method 24 because the regulation allows for the use of VOC content as a surrogate for HAP.
- ASTM D6093–97 (Reapproved 2016), ''Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer.'' This test method is used for the determination of the percent volume nonvolatile matter in clear and pigmented coatings.
- ASTM D2111–10 (Reapproved 2015), ''Standard Test Methods for Specific Gravity of Halogenated Organic Solvents and Their Admixtures.'' This test method is used for the determination of the specific gravity of halogenated organic solvents and solvent admixtures.
- ASTM D1963–85 (Reapproved 1996), ''Standard Test Method for Specific Gravity of Drying Oils, Varnishes, Resins, and Related Materials at 25° C.'' This test method is used for the determination of the specific gravity of drying oils, varnishes, alkyd resins, fatty acids, and related materials. This method is an acceptable alternative to EPA Method 24 for density only and may not be valid for all coatings and is valid at the designated temperature (25 degrees Celsius). This standard was withdrawn in 2004 with no replacement; there is no later version.

These standards are reasonably available from the American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959. See *https://www.astm.org/.*

While the EPA has identified another 19 VCS as being potentially applicable to this NESHAP, we have decided not to use these VCS in this rulemaking. The use of these VCS would not be practical due to lack of equivalency, documentation, validation date, and other important technical and policy considerations. See the memorandum titled *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating,* in the docket for this rule for the reasons for these determinations (Docket ID Item No. EPA–HQ–OAR–2018–0416–0068).

The revised regulatory text references ANSI/ASME PTC 19.10–1981 (40 CFR 63.3360) and ASTM D5087–02 (40 CFR 63.3165). These standards were previously approved for this section. That approval continues without change.

Under 40 CFR 63.7(f) and 40 CFR 63.8(f) of subpart A of the General Provisions, a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

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 section V.F of this preamble and the technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Paper and Other Web Coating Facilities,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0416).

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 out in the preamble, 40 CFR part 63 is amended 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:

■ a. Redesignating paragraphs (h)(49) through (114) as (h)(51) through (116) and paragraphs (h)(18) through (48) as (h)(19) through (49), respectively;

■ b. Adding new paragraphs (h)(18) and (50); and

■ c. Revising newly redesignated paragraphs (h)(21), (26), (30), and (80).

The additions and revisions read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(h) * * *

(18) ASTM D1963–85 (Reapproved 1996), Standard Test Method for Specific Gravity of Drying Oils, Varnishes, Resins, and Related Materials at 25/25°C, approved November 29, 1985, IBR approved for § 63.3360(c).

* * * * *

(21) ASTM D2111–10 (Reapproved 2015), Standard Test Methods for Specific Gravity and Density of Halogenated Organic Solvents and Their Admixtures, approved June 1, 2015, IBR approved for §§ 63.3360(c), 63.3951(c), 63.4141(b) and (c), 63.4551(c), and 63.4741(a).

* * * * *

(26) ASTM D2369–10 (Reapproved 2015)[e], Standard Test Method for Volatile Content of Coatings, approved June 1, 2015, IBR approved for §§ 63.3151(a), 63.3360(c), 63.3961(j), 63.4141(a) and (b), 63.4161(h), 63.4321(e), 63.4341(e), 63.4351(d), 63.4541(a), 63.4561(j), appendix A to subpart PPPP, 63.4741(a), 63.4941(a) and (b), and 63.4961(j).

* * * * *

(30) ASTM D2697–03 (Reapproved 2014), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, approved July 1, 2014, IBR approved for §§ 63.3161(f), 63.3360(c), 63.3941(b), 63.4141(b), 63.4741(a) and (b), and 63.4941(b).

* * * * *

(50) ASTM 3960–98, Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings, approved November 10, 1998, IBR approved for § 63.3360(c).

* * * * *

(80) ASTM D6093–97 (Reapproved 2016), Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer, approved December 1, 2016, IBR approved for §§ 63.3161(f), 63.3360(c), 63.3941(b), 63.4141(b), 63.4741(a) and (b), and 63.4941(b).

* * * * *

Subpart JJJJ—National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating

■ 3. Section 63.3300 is amended by:

■ a. Revising the introductory text and paragraphs (a), (b), (d), (e) and (f); and

■ b. Adding paragraphs (h) through (j).

The revisions and additions read as follows:

§ 63.3300 Which of my emission sources are affected by this subpart?

The affected source subject to this subpart is the collection of all web coating lines at your facility. This includes web coating lines engaged in the coating of metal webs that are used in flexible packaging, and web coating lines engaged in the coating of fabric substrates for use in pressure sensitive tape and abrasive materials. Web coating lines specified in paragraphs (a) through (g) of this section are not part of the affected source of this subpart.

(a) Any web coating line that is stand-alone equipment under subpart KK of this part (National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Printing and Publishing Industry) which the owner or operator includes in the affected source under subpart KK.

(b) Any web coating line that is a product and packaging rotogravure or wide-web flexographic press under subpart KK of this part (NESHAP for the Printing and Publishing Industry) which is included in the affected source under subpart KK.

* * * * *

(d) Any web coating line subject to subpart EE of this part (NESHAP for Magnetic Tape Manufacturing Operations).

(e) Any web coating line subject to subpart SSSS of this part (NESHAP for Surface Coating of Metal Coil).

(f) Any web coating line subject to subpart OOOO of this part (NESHAP for the Printing, Coating, and Dyeing of Fabrics and Other Textiles). This includes any web coating line that coats both a paper or other web substrate and a fabric or other textile substrate, except for a fabric substrate used for pressure sensitive tape and abrasive materials.

* * * * *

(h) Any web coating line that coats both paper or a web, and another substrate such as fabric, may comply with the subpart of this part that applies to the predominant activity conducted on the affected source. Predominant activity for this subpart is 90 percent of the mass of substrate coated during the compliance period. For example, a web coating line that coats 90 percent or more of a paper substrate, and 10 percent or less of a fabric or other textile substrate, would be subject to this subpart and not subpart OOOO of this part. You may use data for any reasonable time period of at least one year in determining the relative amount of coating activity, as long as they are expected to represent the way the source will continue to operate in the future. You must demonstrate and document the predominant activity annually.

(i) Any web coating line subject to this part that is modified to include printing activities, may continue to demonstrate compliance with this part, in lieu of demonstrating compliance with subpart KK of this part. Any web coating line with product and packaging rotogravure print station(s) and/or a wide-web flexographic print station(s) that is subject to this subpart may elect to continue demonstrating compliance with this subpart in lieu of subpart KK of this part, if the mass of the materials applied to the line's print station(s) in

a month ever exceed 5 percent of the total mass of materials applied onto the line during the same period.

(j) If all of the subject web coating lines at your facility utilize non-HAP coatings, you can become exempt from the reporting requirements of this subpart, provided you submit a one-time report as required in § 63.3370(s) to your permitting authority documenting the use of only non-HAP coatings.

■ 4. Section 63.3310 is amended by revising the definitions of ''coating material(s)'' and ''web coating line'' to read as follows:

§ 63.3310 What definitions are used in this subpart?

* * * * *

Coating material(s) means all liquid or semi-liquid materials (including the solids fraction of those materials as applied), such as inks, varnishes, adhesives (including hot melt adhesives or other hot melt materials), primers, solvents, reducers, and other materials applied to a substrate via a web coating line. Materials used to form a substrate or applied via vapor deposition, and dry abrasive materials deposited on top of a coated web, are not considered coating materials.

* * * * *

Web coating line means any number of work stations, of which one or more applies a continuous layer of liquid or semi-liquid coating material across the entire width or any portion of the width of a web substrate, and any associated curing/drying equipment between an unwind or feed station and a rewind or cutting station.

* * * * *

■ 5. Section 63.3320 is amended by revising paragraphs (b) introductory text and (b)(4) to read as follows:

The revisions read as follows:

§ 63.3320 What emission standards must I meet?

* * * * *

(b) You must limit organic HAP emissions to the level specified in paragraph (b)(1), (2), (3), or (4) of this section for all periods of operation, including startup, shutdown, and malfunction (SSM).

* * * * *

(4) If you use an oxidizer to control organic HAP emissions, operate the oxidizer such that an outlet organic HAP concentration of no greater than 20 parts per million by volume (ppmv) on a dry basis is achieved and the efficiency of the capture system is 100 percent.

* * * * *

■ 6. Section 63.3321 is amended by revising paragraph (a) to read as follows:

§ 63.3321 What operating limits must I meet?

(a) For any web coating line or group of web coating lines for which you use add-on control devices to demonstrate compliance with the emission standards in § 63.3320, unless you use a solvent recovery system and conduct a liquid-liquid material balance, you must meet the operating limits specified in Table 1 to this subpart or according to paragraph (b) of this section. These operating limits apply to emission capture systems and control devices used to demonstrate compliance with this subpart, and you must establish the operating limits during the performance test according to the requirements in § 63.3360(e)(3). You must meet the operating limits at all times after you establish them.

* * * * *

■ 7. Section 63.3330 is revised to read as follows:

§ 63.3330 When must I comply?

(a) For affected sources which commenced construction or reconstruction prior to September 19, 2019, you must comply as follows:

(1) Before July 9, 2021, the affected coating operation(s) must be in compliance with the applicable emission limit in § 63.3320 at all times, except during periods of SSM. On and after July 9, 2021, the affected coating operation(s) must be in compliance with the applicable emission limit in § 63.3320 at all times, including periods of SSM.

(2) A periodic emissions performance test must be performed by July 9, 2023, or within 60 months of the previous test, whichever is later, and subsequent tests no later than 60 months thereafter, as required in § 63.3360. Performance testing for HAP or VOC destruction efficiency required by state agencies can be used to meet this requirement.

(3) After July 9, 2021, you must electronically submit initial notifications, notifications of compliance status, performance evaluation reports, and performance test reports, as required in § 63.3400. Semiannual compliance reports must be submitted electronically for the first full semiannual compliance period after the template has been available in the Compliance and Emissions Data Reporting Interface (CEDRI) for 1 year.

(b) For new affected sources which commenced construction or reconstruction after September 19, 2019, you must comply as indicated in paragraphs (b)(1) through (3) of this section. Existing affected sources which have undergone reconstruction as defined in § 63.2 are subject to the requirements for new affected sources. The costs associated with the purchase and installation of air pollution control equipment are not considered in determining whether the existing affected source has been reconstructed. Additionally, the costs of retrofitting and replacing of equipment that is installed specifically to comply with this subpart are not considered reconstruction costs.

(1) The coating operation(s) must be in compliance with the applicable emission limit in § 63.3320 at all times, including periods of SSM, starting July 9, 2020, or immediately upon startup, whichever is later.

(2) You must complete any initial performance test required in § 63.3360 within the time limits specified in § 63.7(a)(2), and subsequent tests no later than 60 months thereafter.

(3) You must electronically submit initial notifications, notifications of compliance status, performance evaluation reports, and performance test reports as required in § 63.3400 starting July 9, 2020, or immediately upon startup, whichever is later. Semiannual compliance reports must be submitted electronically for the first full semiannual compliance period after the template has been available in CEDRI for 1 year.

■ 8. Section 63.3340 is revised to read as follows:

§ 63.3340 What general requirements must I meet to comply with the standards?

(a) Before July 9, 2021, for each existing source for which construction or reconstruction commenced on or before September 19, 2019, you must be in compliance with the emission limits and operating limits in this subpart at all times, except during periods of SSM. On and after July 9, 2021, for each such source you must be in compliance with the emission limits and operating limits in this subpart at all times. For new and reconstructed sources for which construction or reconstruction commenced after September 19, 2019, you must be in compliance with the emission limits and operating limits in this subpart at all times, starting July 9, 2020, or immediately upon startup, whichever is later.

(b) For affected sources as of September 19, 2019, before July 9, 2021, you must always operate and maintain your affected source, including all air pollution control and monitoring equipment you use for purposes of complying with this subpart, according to the provisions in § 63.6(e)(1)(i). On

and after July 9, 2021, for such sources and on July 9, 2020, or immediately upon startup, whichever is later, for new or reconstructed affected sources, you must always operate and maintain your affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator 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) You must conduct each performance test required by § 63.3360 according to the requirements in § 63.3360(e)(2) and under the conditions in this section unless you obtain a waiver of the performance test according to the provisions in § 63.7(h).

(1) Representative coating operation operating conditions. You must conduct the performance test under representative operating conditions for the coating operation. Operations during periods of startup, shutdown, and nonoperation do not constitute representative conditions. 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 explain why the 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.

(2) Representative emission capture system and add-on control device operating conditions. You must conduct the performance test when the emission capture system and add-on control device are operating at a representative flow rate, and the add-on control device is operating at a representative inlet concentration. Representative conditions exclude periods of startup and shutdown. You may not conduct performance tests during periods of malfunction. You must record information that is necessary to document emission capture system and add-on control device operating conditions during the test and explain why the conditions represent normal operation.

(d) Table 2 to this subpart specifies the provisions of subpart A of this part that apply if you are subject to subpart JJJJ.

■ 9. Section 63.3350 is amended by:
■ a. Revising paragraphs (b), (c) introductory text, (d)(1)(iii), (e) introductory text, and (e)(2) and (4);
■ b. Redesignating paragraphs (e)(5) through (10) as paragraphs (e)(6) through (11);
■ c. Adding new paragraph (e)(5); and
■ d. Revising newly redesignated paragraph (e)(10).

The revisions and addition read as follows:

§ 63.3350 If I use a control device to comply with the emission standards, what monitoring must I do?

* * * * *

(b) Following the date on which the initial or periodic performance test of a control device is completed to demonstrate continuing compliance with the standards, you must monitor and inspect each capture system and each control device used to comply with § 63.3320. You must install and operate the monitoring equipment as specified in paragraphs (c) and (f) of this section.

(c) *Bypass and coating use monitoring.* If you own or operate web coating lines with intermittently-controlled work stations, you must monitor bypasses of the control device and the mass of each coating material applied at the work station during any such bypass. If using a control device for complying with the requirements of this subpart, you must demonstrate that any coating material applied on a never-controlled work station or an intermittently-controlled work station operated in bypass mode is allowed in your compliance demonstration according to § 63.3370(o) and (p). The bypass monitoring must be conducted using at least one of the procedures in paragraphs (c)(1) through (4) of this section for each work station and associated dryer.

* * * * *

(d) * * *

(1) * * *

(iii) You must have valid data from at least 90 percent of the hours when the process is operated. Invalid or missing data should be reported as a deviation in the semiannual compliance report.

* * * * *

(e) *Continuous parameter monitoring system (CPMS).* If you are using a control device to comply with the emission standards in § 63.3320, you must install, operate, and maintain each CPMS specified in paragraphs (e)(10) and (11) and (f) of this section according to the requirements in paragraphs (e)(1) through (9) of this section. You must install, operate, and maintain each CPMS specified in paragraph (c) of this section according to paragraphs (e)(5) through (8) of this section.

* * * * *

(2) You must have valid data from at least 90 percent of the hours when the process operated.

* * * * *

(4) You must determine the block 3-hour average of all recorded readings for each operating period. To calculate the average for each 3-hour averaging period, you must have at least two of three of the hourly averages for that period using only average values that are based on valid data (*i.e.,* not from out-of-control periods).

(5) Except for temperature sensors, you must develop a quality control program that must contain, at a minimum, a written protocol that describes the procedures for each of the operations in § 63.3350(e)(5)(i) through (vi). The owner or operator shall keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, the owner or operator shall keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. For temperature sensors, you must follow the requirements in § 63.3350(e)(10).

(i) Initial and any subsequent calibration of the continuous monitoring system (CMS);

(ii) Determination and adjustment of the calibration drift of the CMS;

(iii) Preventative maintenance of the CMS, including spare parts inventory;

(iv) Data recording, calculations, and reporting;

(v) Accuracy audit procedures, including sampling and analysis methods; and

(vi) Program of corrective action for a malfunctioning CMS.

* * * * *

(10) *Oxidizer.* If you are using an oxidizer to comply with the emission standards of this subpart, you must comply with paragraphs (e)(10)(i) through (vi) of this section.

(i) Install, maintain, and operate temperature monitoring equipment according to the manufacturer's specifications.

(ii) For an oxidizer other than a catalytic oxidizer, install, operate, and maintain a temperature monitoring device equipped with a continuous recorder. The device must be capable of monitoring temperature with an accuracy of ±1 percent of the temperature being monitored in degrees Fahrenheit or ±1.8 degrees Fahrenheit, whichever is greater. The temperature sensor must be installed in the combustion chamber at a location in the combustion zone.

(iii) For a catalytic oxidizer, install, operate, and maintain a temperature monitoring device equipped with a continuous recorder. The device must be capable of monitoring temperature with an accuracy of ±1 percent of the temperature being monitored in degrees Fahrenheit or ±1.8 degrees Fahrenheit, whichever is greater. The temperature sensor must be installed in the vent stream at the nearest feasible point to the inlet and outlet of the catalyst bed. Calculate the temperature rise across the catalyst.

(iv) For temperature sensors, you must develop a quality control program that must contain, at a minimum, a written protocol that describes the procedures for verifying that the temperature sensor is operating properly using at least one of the methods in paragraph (e)(10)(iv)(A), (B), (C), (D), (E), or (F) of this section. The owner or operator shall keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator:

(A) Semiannually, compare measured readings to a National Institute of Standards and Technology (NIST) traceable temperature measurement device or simulate a typical operating temperature using a NIST traceable temperature simulation device. When the temperature measurement device method is used, the sensor of the calibrated device must be placed as close as practicable to the process sensor, and both devices must be subjected to the same environmental conditions. The accuracy of the temperature measured must be 2.5 percent of the temperature measured by the NIST traceable device or 5 degrees Fahrenheit whichever is greater.

(B) Annually validate the temperature sensor by following applicable mechanical and electrical validation procedures in the manufacturer owner's manual.

(C) Annually request the temperature sensor manufacturer to certify or re-certify electromotive force (electrical properties) of the thermocouple.

(D) Annually replace the temperature sensor with a new certified temperature sensor in lieu of validation.

(E) Permanently install a redundant temperature sensor as close as practicable to the process temperature sensor. The sensors must yield a reading within 2.5 percent of each other for thermal oxidizers and catalytic oxidizers.

(F) Permanently install a temperature sensor with dual sensors to account for the possibility of failure.

(v) Conduct the validation checks in paragraph (e)(10)(iv)(A), (B), or (C) of this section any time the temperature sensor exceeds the manufacturer's specified maximum operating temperature range or install a new temperature sensor.

(vi) At least quarterly, inspect temperature sensor components for proper connection and integrity or continuously operate an electronic monitoring system designed to notify personnel if the signal from the temperature sensor is interrupted.

* * * * *

■ 10. Section 63.3360 is amended by:
■ a. Revising paragraphs (a), (b), (c)(1)(i), and (c)(2) through (4), (d)(1) through (3), and (e)(1) through (3);
■ b. Adding paragraph (e)(4); and
■ c. Revising the paragraphs (f) introductory text and (g).

The revisions and addition read as follows:

§ 63.3360 What performance tests must I conduct?

(a) The performance test methods you must conduct are as follows:

If you control organic HAP on any individual web coating line or any group of web coating lines to demonstrate compliance with the emission limits in § 63.3320 by:	You must:
(1) Limiting organic HAP or volatile matter content of coatings.	Determine the organic HAP or volatile matter and coating solids content of coating materials according to procedures in paragraphs (c) and (d) of this section. If applicable, determine the mass of volatile matter retained in the coated web or otherwise not emitted to the atmosphere according to paragraph (g) of this section.
(2) Using a capture and control system	(i) Initially, conduct a performance test for each capture and control system to determine: The destruction or removal efficiency of each control device other than solvent recovery according to § 63.3360(e), and the capture efficiency of each capture system according to § 63.3360(f). If applicable, determine the mass of volatile matter retained in the coated web or otherwise not emitted to the atmosphere according to § 63.3360(g). (ii) Perform a periodic test once every 5 years for each thermal oxidizer to determine the destruction or removal efficiency according to § 63.3360(e). If applicable, determine the mass of volatile matter retained in the coated web or otherwise not emitted to the atmosphere according to § 63.3360(g). (iii) Either perform a periodic test once every 5 years for each catalytic oxidizer to determine the destruction or removal efficiency according to § 63.3360(e) OR perform a catalyst activity test annually on each catalytic oxidizer to ensure that the catalyst is performing properly according to § 63.3360(e)(3)(ii)(D)(1). If applicable, determine the mass of volatile matter retained in the coated web or otherwise not emitted to the atmosphere according to § 63.3360(g).

(b) *Control Device.* If you are using a control device to comply with the emission standards in § 63.3320, you are not required to conduct a performance test to demonstrate compliance if one or more of the criteria in paragraphs (b)(1) through (3) of this section are met.

(1) The control device is equipped with continuous emission monitoring systems (CEMS) for determining inlet and outlet total organic volatile matter concentration and meeting the requirements of Performance Specification 6, 8, or 9 in Appendix B to 40 CFR Part 60 and capture efficiency

has been determined in accordance with the requirements of this subpart such that an overall organic HAP control efficiency can be calculated, and the CEMS are used to demonstrate continuous compliance in accordance with § 63.3350; or

(2) You have met the requirements of § 63.7(h) (for waiver of performance testing); or

(3) The control device is a solvent recovery system and you comply by means of a monthly liquid-liquid material balance.

(c) * * *

(1) * * *

(i) Include each organic HAP determined to be present at greater than or equal to 0.1 mass percent for Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in section A.6.4 of appendix A to 29 CFR 1910.1200 and greater than or equal to 1.0 mass percent for other organic HAP compounds.

* * * * *

(2) *Method 24.* For coatings, determine the volatile organic content as mass fraction of nonaqueous volatile matter and use it as a substitute for organic HAP using Method 24 of appendix A–7 to 40 CFR part 60. The Method 24 determination may be performed by the manufacturer of the coating and the results provided to you. One of the voluntary consensus standards in paragraphs (c)(2)(i) through (v) of this section may be used as an alternative to using Method 24.

(i) ASTM D1963–85 (Reapproved 1996), (incorporated by reference, see § 63.14);

(ii) ASTM D2111–10 (Reapproved 2015), (incorporated by reference, see § 63.14);

(iii) ASTM D2369–10 (Reapproved 2015)[e], (incorporated by reference, see § 63.14);

(iv) ASTM D2697–03 (Reapproved 2014), (incorporated by reference, see § 63.14); and

(v) ASTM D6093–97 (Reapproved 2016), (incorporated by reference, see § 63.14).

(3) *Formulation data.* You may use formulation data to determine the organic HAP mass fraction of a coating material. Formulation data may be provided to the owner or operator by the manufacturer of the material. In the event of an inconsistency between Method 311 (appendix A to this part) test data and a facility's formulation data, and the Method 311 test value is higher, the Method 311 data will govern. Formulation data may be used provided that the information represents all organic HAP present at a level equal to or greater than 0.1 percent for OSHA-defined carcinogens as specified in section A.6.4 of appendix A to 29 CFR 1910.1200 and equal to or greater than 1.0 percent for other organic HAP compounds in any raw material used.

(4) *As-applied organic HAP mass fraction.* If the as-purchased coating material is applied to the web without any solvent or other material added, then the as-applied organic HAP mass fraction is equal to the as-purchased organic HAP mass fraction. Otherwise, the as-applied organic HAP mass fraction must be calculated using Equation 4 of § 63.3370.

(d) * * *

(1) *Method 24.* You may determine the volatile organic and coating solids mass fraction of each coating applied using Method 24 (appendix A–7 to 40 CFR part 60). The Method 24 determination may be performed by the manufacturer of the material and the results provided to you. When using volatile organic compound content as a surrogate for HAP, you may also use ASTM D3960–98, (incorporated by reference, see § 63.14) as an alternative to Method 24. If these values cannot be determined using either of these methods, you must submit an alternative technique for determining their values for approval by the Administrator.

(2) *Formulation data.* You may determine the volatile organic content and coating solids content of a coating material based on formulation data and may rely on volatile organic content data provided by the manufacturer of the material. In the event of any inconsistency between the formulation data and the results of Method 24 of appendix A–7 to 40 CFR part 60 and the Method 24 results are higher, the results of Method 24 will govern.

(3) *As-applied volatile organic content and coating solids content.* If the as-purchased coating material is applied to the web without any solvent or other material added, then the as-applied volatile organic content is equal to the as-purchased volatile content and the as-applied coating solids content is equal to the as-purchased coating solids content. Otherwise, the as-applied volatile organic content must be calculated using Equation 5 to § 63.3370(c)(4) and the as-applied coating solids content must be calculated using Equation 6 to § 63.3370(d).

(e) * * *

(1) *Initial performance test.* An initial performance test to establish the destruction or removal efficiency of the control device used to comply with the emission standards in § 63.3320 must be conducted such that control device inlet and outlet testing is conducted simultaneously, and the data are reduced in accordance with the test methods and procedures in paragraphs (e)(1)(i) through (ix) of this section. You must conduct three test runs as specified in § 63.7(e)(3), and each test run must last at least 1 hour.

(i) Method 1 or 1A of appendix A–1 to 40 CFR part 60 must be used for sample and velocity traverses to determine sampling locations.

(ii) Method 2, 2A, 2C, 2D, or 2F of appendix A–1 to 40 CFR part 60, or Method 2G of appendix A–2 to 40 CFR part 60 must be used to determine gas volumetric flow rate.

(iii) Method 3, 3A, or 3B of appendix A–2 to 40 CFR part 60 must be used for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ANSI/ASME PTC 19.10–1981 Part 10, (incorporated by reference, see § 63.14).

(iv) Method 4 of appendix A–3 to 40 CFR part 60 must be used to determine stack gas moisture.

(v) Methods for determining the gas volumetric flow rate, dry molecular weight, and stack gas moisture must be performed, as applicable, during each test run.

(vi) Method 25 or 25A of appendix A–7 to 40 CFR part 60 must be used to determine total gaseous non-methane organic matter concentration. Use the same test method for both the inlet and outlet measurements which must be conducted simultaneously. You must submit notice of the intended test method to the Administrator for approval along with notification of the performance test required under § 63.7(b). You must use Method 25A if any of the conditions described in paragraphs (e)(1)(vi)(A) through (D) of this section apply to the control device.

(A) The control device is not an oxidizer.

(B) The control device is an oxidizer but an exhaust gas volatile organic matter concentration of 50 ppmv or less is required to comply with the emission standards in § 63.3320; or

(C) The control device is an oxidizer but the volatile organic matter concentration at the inlet to the control system and the required level of control are such that they result in exhaust gas volatile organic matter concentrations of 50 ppmv or less; or

(D) The control device is an oxidizer but because of the high efficiency of the control device the anticipated volatile organic matter concentration at the

control device exhaust is 50 ppmv or less, regardless of inlet concentration.

(vii) Except as provided in § 63.7(e)(3), each performance test must consist of three separate runs with each run conducted for at least 1 hour under the conditions that exist when the affected source is operating under normal operating conditions. For the purpose of determining volatile organic compound concentrations and mass flow rates, the average of the results of all the runs will apply.

(viii) Volatile organic matter mass flow rates must be determined for each run specified in paragraph (e)(1)(vii) of this section using Equation 1:

$$M_f = Q_{sd} C_c [12][0.0416][10^{-6}]$$

Equation 1

Where:

M_f = Total organic volatile matter mass flow rate, kilograms (kg)/hour (h).

Q_{sd} = Volumetric flow rate of gases entering or exiting the control device, as determined according to paragraph (e)(1)(ii) of this section, dry standard cubic meters (dscm)/h.

C_c = Concentration of organic compounds as carbon, ppmv.

12.0 = Molecular weight of carbon.

0.0416 = Conversion factor for molar volume, kg-moles per cubic meter (mol/m^3) (@293 Kelvin (K) and 760 millimeters of mercury (mmHg)).

(ix) For each run, emission control device destruction or removal efficiency must be determined using Equation 2:

$$E = \frac{M_{fi} - M_{fo}}{M_{fi}} \times 100$$

Equation 2

Where:

E = Organic volatile matter control efficiency of the control device, percent.

M_{fi} = Organic volatile matter mass flow rate at the inlet to the control device, kg/h.

M_{fo} = Organic volatile matter mass flow rate at the outlet of the control device, kg/h.

(x) The control device destruction or removal efficiency is determined as the average of the efficiencies determined in the test runs and calculated in Equation 2.

(2) *Process information.* You must record such process information as may be necessary to determine the conditions in existence at the time of the performance test. 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.

(3) *Operating limits.* If you are using one or more add-on control device other than a solvent recovery system for which you conduct a liquid-liquid material balance to comply with the emission standards in § 63.3320, you must establish the applicable operating limits required by § 63.3321. These operating limits apply to each add-on emission control device, and you must establish the operating limits during the performance test required by paragraph (e) of this section according to the requirements in paragraphs (e)(3)(i) and (ii) of this section.

(i) Thermal oxidizer. If your add-on control device is a thermal oxidizer, establish the operating limits according to paragraphs (e)(3)(i)(A) and (B) of this section.

(A) During the performance test, you must monitor and record the combustion temperature at least once every 15 minutes during each of the three test runs. You must monitor the temperature in the firebox of the thermal oxidizer or immediately downstream of the firebox before any substantial heat exchange occurs.

(B) Use the data collected during the performance test to calculate and record the average combustion temperature maintained during the performance test. Maintain the 3-hour average combustion temperature no more than 50 degrees Fahrenheit lower than this average combustion temperature.

(ii) Catalytic oxidizer. If your add-on control device is a catalytic oxidizer, establish the operating limits according to paragraphs (e)(3)(ii)(A) and (B) or paragraphs (e)(3)(ii)(C) and (D) of this section.

(A) During the performance test, you must monitor and record the temperature just before the catalyst bed and the temperature difference across the catalyst bed at least once every 15 minutes during each of the three test runs.

(B) Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed maintained during the performance test. Maintain the 3-hour average combustion temperature no more than 50 degrees Fahrenheit lower than this average combustion temperature or maintain the 3-hour average temperature difference across the catalyst bed at no less than 80 percent of this average temperature differential, provided that the minimum temperature is always 50 degrees Fahrenheit above the catalyst's ignition temperature.

(C) As an alternative to monitoring the temperature difference across the catalyst bed, you may monitor the temperature at the inlet to the catalyst bed and implement a site-specific inspection and maintenance plan for your catalytic oxidizer as specified in paragraph (e)(3)(ii)(D) of this section. During the performance test, you must monitor and record the temperature just before the catalyst bed at least once every 15 minutes during each of the three test runs. Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed during the performance test. Maintain the 3-hour average combustion temperature no more than 50 degrees Fahrenheit lower than this average combustion temperature.

(D) You must develop and implement an inspection and maintenance plan for your catalytic oxidizer(s) for which you elect to monitor according to paragraph (e)(3)(ii)(C) of this section. The plan must address, at a minimum, the elements specified in paragraphs (e)(3)(ii)(D)(1) through (3) of this section.

(1) Annual sampling and analysis of the catalyst activity (*i.e.,* conversion efficiency) following the manufacturer's or catalyst supplier's recommended procedures,

(2) Monthly inspection of the oxidizer system including the burner assembly and fuel supply lines for problems, and

(3) Annual internal and monthly external visual inspection of the catalyst bed to check for channeling, abrasion, and settling. If problems are found, you must take corrective action consistent with the manufacturer's recommendations and conduct a new performance test to determine destruction efficiency in accordance with this section.

(4) *Control Destruction Efficiency Curve Development.* If you are using one or more add-on control devices other than a solvent recovery system for which you conduct a liquid-liquid material balance to comply with the emission standards in § 63.3320, you may establish a control destruction efficiency curve for use in estimating emissions that occur during deviations of the 3-hour operating parameters. This curve can be generated using test data or manufacturer's data that specifically documents the level of control at varying temperatures for your control device.

(f) *Capture efficiency.* If you demonstrate compliance by meeting the requirements of § 63.3370(f), (g), (h), (i), (j)(2), (l), (o)(2) or (3), or (q), you must determine capture efficiency using the procedures in paragraph (f)(1), (2), or (3) of this section, as applicable.

* * * * *

(g) *Volatile matter retained in the coated web or otherwise not emitted to the atmosphere.* You may choose to take into account the mass of volatile matter retained in the coated web after curing or drying or otherwise not emitted to the atmosphere when determining compliance with the emission standards in § 63.3320. If you choose this option, you must develop a site- and product-specific emission factor (EF) and determine the amount of volatile matter retained in the coated web or otherwise not emitted using Equation 3 to § 63.3360(g)(1). The EF must be developed by conducting a performance test using an approved EPA test method, or alternative approved by the Administrator by obtaining the average of a three-run test. You may additionally use manufacturer's emissions test data (as long as it replicates the facility's coating formulation and operating conditions), or a mass-balance type approach using a modified Method 24 (including ASTM D5403–93 for radiation-cureable coatings). The EF should equal the proportion of the mass of volatile organics emitted to the mass of volatile organics in the coating materials evaluated. You may use the EF in your compliance calculations only for periods that the work station(s) was (were) used to make the product, or a similar product, corresponding to that produced during the performance test. You must develop a separate EF for each group of different products that you choose to utilize an EF for calculating emissions by conducting a separate performance test for that group of products. You must conduct a periodic performance test to re-establish the EF if there is a change in coating formulation, operating conditions, or other change that could reasonably be expected to increase emissions since the time of the last test that was used to establish the EF.

(1) Calculate the mass of volatile organics retained in the coated web or otherwise not emitted for the month from each group of similar products using Equation 3:

$$M_{vret} = \left(C_{vi}M_i + \sum_{j=1}^{q} C_{vij}M_{ij}\right) \times (1 - EF_i) \qquad \text{Equation 3}$$

Where:

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg.

C_{vi} = Volatile organic content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{vij} = Volatile organic content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

EF_i = Volatile organic matter site- and product-specific emission factor (three-run average determined from performance testing, evaluated as proportion of mass volatile organics emitted to mass of volatile organics in the coatings used during the performance test).

(2) [Reserved]

* * * * *

■ 11. Section 63.3370 is amended by:

■ a. Adding introductory text;

■ b. Revising paragraphs (a), (c)(1)(ii), (c)(2)(i) and (ii), (c)(3) and (4), and (d);

■ c. Redesignating paragraphs (e) through (p) as paragraphs (f) through (q);

■ d. Adding new paragraph (e);

■ e. Revising newly redesignated paragraphs (f) through (m) and (o) though (q); and

■ f. Adding paragraphs (r) and (s).

The additions and revisions read as follows:

§ 63.3370 How do I demonstrate compliance with the emission standards?

You must demonstrate compliance each month with the emission limitations in § 63.3320(b)(1) through (4). For each monthly demonstration, you may apply any combination of the emission limitations to each of your web coating lines individually, to each of one or more groupings of your lines (including a single grouping encompassing all lines of your affected source), or to any combination of individual and grouped lines, so long as each web coating line is included in the compliance demonstration for the month (*i.e.,* you are not required to apply the same emission limitation to each of the individual lines or groups of lines). You may change the emission limitation that you apply each month to your individual or grouped lines, and you may change line groupings for your monthly compliance demonstration.

(a) A summary of how you must demonstrate compliance follows:

If you choose to demonstrate compliance by:	Then you must demonstrate that:	To accomplish this:
(1) Use of "as-purchased" compliant coating materials.	(i) Each coating material used at an existing affected source does not exceed 0.04 kg organic HAP per kg coating material, and each coating material used at a new affected source does not exceed 0.016 kg organic HAP per kg coating material as-purchased; or.	Follow the procedures set out in § 63.3370(b).

If you choose to demonstrate compliance by:	Then you must demonstrate that:	To accomplish this:
	(ii) Each coating material used at an existing affected source does not exceed 0.2 kg organic HAP per kg coating solids, and each coating material used at a new affected source does not exceed 0.08 kg organic HAP per kg coating solids as-purchased.	Follow the procedures set out in § 63.3370(b).
(2) Use of ''as-applied'' compliant coating materials.	(i) Each coating material used at an existing affected source does not exceed 0.04 kg organic HAP per kg coating material, and each coating material used at a new affected source does not exceed 0.016 kg organic HAP per kg coating material as-applied; or.	Follow the procedures set out in § 63.3370(c)(1). Use either Equation 4 or 5 of § 63.3370 to determine compliance with § 63.3320(b)(2) in accordance with § 63.3370(c)(5)(i).
	(ii) Each coating material used at an existing affected source does not exceed 0.2 kg organic HAP per kg coating solids, and each coating material used at a new affected source does not exceed 0.08 kg organic HAP per kg coating solids as-applied; or.	Follow the procedures set out in § 63.3370(c)(2). Use Equations 6 and 7 of § 63.3370 to determine compliance with § 63.3320(b)(3) in accordance with § 63.3370(c)(5)(i).
	(iii) Monthly average of all coating materials used at an existing affected source does not exceed 0.04 kg organic HAP per kg coating material, and monthly average of all coating materials used at a new affected source does not exceed 0.016 kg organic HAP per kg coating material as-applied on a monthly average basis; or.	Follow the procedures set out in § 63.3370(c)(3). Use Equation 8 of § 63.3370 to determine compliance with § 63.3320(b)(2) in accordance with § 63.3370(c)(5)(ii).
	(iv) Monthly average of all coating materials used at an existing affected source does not exceed 0.2 kg organic HAP per kg coating solids, and monthly average of all coating materials used at a new affected source does not exceed 0.08 kg organic HAP per kg coating solids as-applied on a monthly average basis.	Follow the procedures set out in § 63.3370(c)(4). Use Equation 9 of § 63.3370 to determine compliance with § 63.3320(b)(3) in accordance with § 63.3370(c)(5)(ii).
(3) Tracking total monthly organic HAP applied.	Total monthly organic HAP applied does not exceed the calculated limit based on emission limitations.	Follow the procedures set out in § 63.3370(d). Show that total monthly HAP applied (Equation 10 of § 63.3370) is less than the calculated equivalent allowable organic HAP (Equation 17 or 18 of § 63.3370).
(4) Accounting for volatile matter retained in the coated web or otherwise not emitted.	A site- and product-specific emission factor was appropriately established for the group of products for which the site- and product-specific emission factor was used in the compliance calculations.	Follow the procedures set out in § 63.3360(g) and § 63.3370(e)
(5) Use of a capture system and control device.	(i) Overall organic HAP control efficiency is equal to 95 percent at an existing affected source and 98 percent at a new affected source on a monthly basis; or oxidizer outlet organic HAP concentration is no greater than 20 ppmv and capture efficiency is 100 percent; or operating parameters are continuously monitored; or.	Follow the procedures set out in § 63.3370(f) to determine compliance with § 63.3320(b)(1) according to § 63.3370(j) if using a solvent recovery device, or § 63.3370(k) if using a control device and CPMS, or § 63.3370(l) if using an oxidizer.
	(ii) Overall organic HAP emission rate does not exceed 0.2 kg organic HAP per kg coating solids for an existing affected source or 0.08 kg organic HAP per kg coating solids for a new affected source on a monthly average as-applied basis;.	Follow the procedures set out in § 63.3370(g) to determine compliance with § 63.3320(b)(3) according to § 63.3370(j) if using a solvent recovery device, or § 63.3370(l) if using an oxidizer.
	(iii) Overall organic HAP emission rate does not exceed 0.04 kg organic HAP per kg coating material for an existing affected source or 0.016 kg organic HAP per kg coating material for a new affected source on a monthly average as-applied basis; or.	Follow the procedures set out in § 63.3370(h) to determine compliance with § 63.3320(b)(2) according to § 63.3370(j) if using a solvent recovery device, or § 63.3370(l) if using an oxidizer.
	(iv) Overall organic HAP emission rate does not exceed the calculated limit based on emission limitations.	Follow the procedures set out in § 63.3370(i). Show that the monthly organic HAP emission rate is less than the calculated equivalent allowable organic HAP emission rate (Equation 17 or 18 of § 63.3370). Calculate the monthly organic HAP emission rate according to § 63.3370(j) if using a solvent recovery device, or § 63.3370(l) if using an oxidizer.

If you choose to demonstrate compliance by:	Then you must demonstrate that:	To accomplish this:
(6) Use of multiple capture and/or control devices.	(i) Overall organic HAP control efficiency is equal to 95 percent at an existing affected source and 98 percent at a new affected source on a monthly basis; or.	Follow the procedures set out in § 63.3370(f) to determine compliance with § 63.3320(b)(1) according to § 63.3370(f)(1) or (2).
	(ii) Average equivalent organic HAP emission rate does not exceed 0.2 kg organic HAP per kg coating solids for an existing affected source or 0.08 kg organic HAP per kg coating solids for a new affected source on a monthly average as-applied basis; or.	Follow the procedures set out in § 63.3370(g) to determine compliance with § 63.3320(b)(3) according to § 63.3370(o).
	(iii) Average equivalent organic HAP emission rate does not exceed 0.04 kg organic HAP per kg coating material for an existing affected source or 0.016 kg organic HAP per kg coating material for a new affected source on a monthly average as-applied basis; or.	Follow the procedures set out in § 63.3370(h) to determine compliance with § 63.3320(b)(2) according to § 63.3370(o).
	(iv) Average equivalent organic HAP emission rate does not exceed the calculated limit based on emission limitations.	Follow the procedures set out in § 63.3370(i). Show that the monthly organic HAP emission rate is less than the calculated equivalent allowable organic HAP emission rate (Equation 17 or 18 of § 63.3370) according to § 63.3370(o).
(7) Use of a combination of compliant coatings and control devices.	(i) Average equivalent organic HAP emission rate does not exceed 0.2 kg organic HAP per kg coating solids for an existing affected source or 0.08 kg organic HAP per kg coating solids for a new affected source on a monthly average as-applied basis; or.	Follow the procedures set out in § 63.3370(g) to determine compliance with § 63.3320(b)(3) according to § 63.3370(o).
	(ii) Average equivalent organic HAP emission rate does not exceed 0.04 kg organic HAP per kg coating material for an existing affected source or 0.016 kg organic HAP per kg coating material for a new affected source on a monthly average as-applied basis; or.	Follow the procedures set out in § 63.3370(h) to determine compliance with § 63.3320(b)(2) according to § 63.3370(o).
	(iii) Average equivalent organic HAP emission rate does not exceed the calculated limit based on emission limitations.	Follow the procedures set out in § 63.3370(i). Show that the monthly organic HAP emission rate is less than the calculated equivalent allowable organic HAP emission rate (Equation 17 or 18 of § 63.3370) according to § 63.3370(o).
(8) Use of non-HAP coatings	All coatings for all coating lines at an affected source have organic HAP contents below 0.1 percent by mass for OSHA-defined carcinogens as specified in section A.6.4 of appendix A to 29 CFR 1910.1200, and below 1.0 percent by mass for other organic HAP compounds.	Follow the procedures set out in § 63.3370(s).

* * * * *

(c) * * *

(1) * * *

(ii) Calculate the as-applied organic HAP content of each coating material using Equation 4:

$$C_{ahi} = \frac{\left(C_{hi}M_i + \sum_{j=1}^{q} C_{hij}M_{ij}\right)}{M_i + \sum_{j=1}^{q} M_{ij}}$$

Equation 4

Where:

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

C_{hi} = Organic HAP content of coating material, i, as-purchased, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = number of different materials added to the coating material.

C_{hij} = Organic HAP content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg. or calculate the as-applied volatile organic content of each coating material using Equation 5:

$$C_{avi} = \frac{\left(C_{vi}M_i + \sum_{j=1}^{q} C_{vij}M_{ij}\right)}{M_i + \sum_{j=1}^{q} M_{ij}}$$

Equation 5

Where:

C_{avi} = Monthly average, as-applied, volatile organic content of coating material, i, expressed as a mass fraction, kg/kg.

C_{vi} = Volatile organic content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{vij} = Volatile organic content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

(2) * * *

(i) Determine the as-applied coating solids content of each coating material following the procedure in § 63.3360(d). You must calculate the as-applied coating solids content of coating materials which are reduced, thinned, or diluted prior to application, using Equation 6:

$$C_{asi} = \frac{\left(C_{si}M_i + \sum_{j=1}^{q} C_{sij}M_{ij}\right)}{M_i + \sum_{j=1}^{q} M_{ij}}$$

Equation 6

Where:

C_{si} = Coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{sij} = Coating solids content of material, j, added to as-purchased coating material, i, expressed as a mass-fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

(ii) Calculate the as-applied organic HAP to coating solids ratio using Equation 7:

$$H_{si} = \frac{C_{ahi}}{C_{asi}}$$

Equation 7

Where:

H_{si} = As-applied, organic HAP to coating solids ratio of coating material, i.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

C_{asi} = Monthly average, as-applied, coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

(3) *Monthly average organic HAP content of all coating materials as-applied is less than the mass percent limit (§ 63.3320(b)(2)).* Demonstrate that the monthly average as-applied organic HAP content of all coating materials applied at an existing affected source is less than 0.04 kg organic HAP per kg of coating material applied, and all coating materials applied at a new affected source are less than 0.016 kg organic HAP per kg of coating material applied, as determined by Equation 8:

$$H_L = \frac{\sum_{i=1}^{p} C_{hi}M_i + \sum_{j=1}^{q} C_{hij}M_{ij} - M_{vret}}{\sum_{i=1}^{p} M_i + \sum_{j=1}^{q} M_{ij}}$$

Equation 8

Where:

H_L = Monthly average, as-applied, organic HAP content of all coating materials applied, expressed as kg organic HAP per kg of coating material applied, kg/kg.

p = Number of different coating materials applied in a month.

C_{hi} = Organic HAP content of coating material, i, as-purchased, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{hij} = Organic HAP content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere,

kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in § 63.3370.

(4) *Monthly average organic HAP content of all coating materials as-applied is less than the mass fraction of coating solids limit (§ 63.3320(b)(3)).* Demonstrate that the monthly average as-applied organic HAP content on the basis of coating solids applied of all coating materials applied at an existing affected source is less than 0.20 kg organic HAP per kg coating solids applied, and all coating materials applied at a new affected source are less than 0.08 kg organic HAP per kg coating solids applied, as determined by Equation 9:

$$H_S = \frac{\sum_{i=1}^{p} C_{hi} M_i + \sum_{j=1}^{q} C_{hij} M_{ij} - M_{vret}}{\sum_{i=1}^{p} C_{Si} M_i + \sum_{j=1}^{q} C_{Sij} M_{ij}}$$

Equation 9

Where:

H_s = Monthly average, as-applied, organic HAP to coating solids ratio, kg organic HAP/kg coating solids applied.

p = Number of different coating materials applied in a month.

C_{hi} = Organic HAP content of coating material, i, as-purchased, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{hij} = Organic HAP content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in § 63.3370.

C_{si} = Coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

C_{sij} = Coating solids content of material, j, added to as-purchased coating material, i, expressed as a mass-fraction, kg/kg.

* * * * *

(d) *Monthly allowable organic HAP applied.* Demonstrate that the total monthly organic HAP applied as determined by Equation 10 is less than the calculated equivalent allowable organic HAP as determined by Equation 17 or 18 in paragraph (m) of this section:

$$H_m = \sum_{i=1}^{p} C_{hi} M_i + \sum_{j=1}^{q} C_{hij} M_{ij} - M_{vret}$$

Equation 10

Where:

H_m = Total monthly organic HAP applied, kg.

p = Number of different coating materials applied in a month.

C_{hi} = Organic HAP content of coating material, i, as-purchased, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{hij} = Organic HAP content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in § 63.3370.

(e) *Accounting for volatile matter retained in the coated web or otherwise not emitted.* If you choose to use the equation in § 63.3360(g) to take into account volatile organic matter that is retained in the coated web or otherwise not emitted, you must identify each group of similar products that can utilize each site- and product-specific emission factor. Details regarding the test methods and calculations are provided in § 63.3360(g).

(f) *Capture and control to reduce emissions to no more than allowable limit (§ 63.3320(b)(1)).* Operate a capture system and control device and demonstrate an overall organic HAP control efficiency of at least 95 percent at an existing affected source and at least 98 percent at a new affected source for each month, or operate a capture system and oxidizer so that an outlet organic HAP concentration of no greater than 20 ppmv on a dry basis is achieved as long as the capture efficiency is 100 percent as detailed in § 63.3320(b)(4). Unless one of the cases described in paragraph (f)(1), (2), or (3) of this section applies to the affected source, you must either demonstrate compliance in accordance with the procedure in paragraph (i) of this section when emissions from the affected source are controlled by a solvent recovery device, or the procedure in paragraph (l) of this section when emissions are controlled by an oxidizer or demonstrate compliance for a web coating line by operating each capture system and each control device and continuous parameter monitoring according to the procedures in paragraph (k) of this section.

(1) If the affected source has only always-controlled work stations and operates more than one capture system or more than one control device, you must demonstrate compliance in accordance with the provisions of either paragraph (o) or (q) of this section.

(2) If the affected source operates one or more never-controlled work stations or one or more intermittently-controlled work stations, you must demonstrate compliance in accordance with the provisions of paragraph (o) of this section.

(3) An alternative method of demonstrating compliance with § 63.3320(b)(1) is the installation of a PTE around the web coating line that

achieves 100 percent capture efficiency and ventilation of all organic HAP emissions from the total enclosure to an oxidizer with an outlet organic HAP concentration of no greater than 20 ppmv on a dry basis. If this method is selected, you must demonstrate compliance by following the procedures in paragraphs (f)(3)(i) and (ii) of this section. Compliance is determined according to paragraph (f)(3)(iii) of this section.

(i) Demonstrate that a total enclosure is installed. An enclosure that meets the requirements in § 63.3360(f)(1) will be considered a total enclosure.

(ii) Determine the organic HAP concentration at the outlet of your total enclosure using the procedures in paragraph (f)(3)(ii)(A) or (B) of this section.

(A) Determine the control device efficiency using Equation 2 of § 63.3360 and the applicable test methods and procedures specified in § 63.3360(e).

(B) Use a CEMS to determine the organic HAP emission rate according to paragraphs (j)(2)(i) through (x) of this section.

(iii) You are in compliance if the installation of a total enclosure is demonstrated and the organic HAP concentration at the outlet of the incinerator is demonstrated to be no greater than 20 ppmv on a dry basis.

(g) *Capture and control to achieve mass fraction of coating solids applied limit (§ 63.3320(b)(3)).* Operate a capture system and control device and limit the organic HAP emission rate from an existing affected source to no more than 0.20 kg organic HAP emitted per kg coating solids applied, and from a new affected source to no more than 0.08 kg organic HAP emitted per kg coating solids applied as determined on a monthly average as-applied basis. If the affected source operates more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controlled work stations, then you must demonstrate compliance in accordance with the provisions of paragraph (o) of this section. Otherwise, you must demonstrate compliance following the procedure in paragraph (j) of this section when emissions from the affected source are controlled by a solvent recovery device or the procedure in paragraph (l) of this section when emissions are controlled by an oxidizer.

(h) *Capture and control to achieve mass fraction limit (§ 63.3320(b)(2)).* Operate a capture system and control device and limit the organic HAP emission rate to no more than 0.04 kg organic HAP emitted per kg coating material applied at an existing affected source, and no more than 0.016 kg organic HAP emitted per kg coating material applied at a new affected source as determined on a monthly average as-applied basis. If the affected source operates more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controlled work stations, then you must demonstrate compliance in accordance with the provisions of paragraph (o) of this section. Otherwise, you must demonstrate compliance following the procedure in paragraph (j) of this section when emissions from the affected source are controlled by a solvent recovery device or the procedure in paragraph (l) of this section when emissions are controlled by an oxidizer.

(i) *Capture and control to achieve allowable emission rate.* Operate a capture system and control device and limit the monthly organic HAP emissions to less than the allowable emissions as calculated in accordance with paragraph (m) of this section. If the affected source operates more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controlled work stations, then you must demonstrate compliance in accordance with the provisions of paragraph (o) of this section. Otherwise, the owner or operator must demonstrate compliance following the procedure in paragraph (j) of this section when emissions from the affected source are controlled by a solvent recovery device or the procedure in paragraph (l) of this section when emissions are controlled by an oxidizer.

(j) *Solvent recovery device compliance demonstration.* If you use a solvent recovery device to control emissions, you must show compliance by following the procedures in either paragraph (j)(1) or (2) of this section:

(1) *Liquid-liquid material balance.* Perform a monthly liquid-liquid material balance as specified in paragraphs (j)(1)(i) through (v) of this section and use the applicable equations in paragraphs (j)(1)(vi) through (ix) of this section to convert the data to units of the selected compliance option in paragraphs (f) through (i) of this section. Compliance is determined in accordance with paragraph (j)(1)(x) of this section.

(i) Determine the mass of each coating material applied on the web coating line or group of web coating lines controlled by a common solvent recovery device during the month.

(ii) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied, organic HAP emission rate based on coating material applied, or emission of less than the calculated allowable organic HAP, determine the organic HAP content of each coating material as-applied during the month following the procedure in § 63.3360(c).

(iii) Determine the volatile organic content of each coating material as-applied during the month following the procedure in § 63.3360(d).

(iv) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied or emission of less than the calculated allowable organic HAP, determine the coating solids content of each coating material applied during the month following the procedure in § 63.3360(d).

(v) Determine and monitor the amount of volatile organic matter recovered for the month according to the procedures in § 63.3350(d).

(vi) *Recovery efficiency.* Calculate the volatile organic matter collection and recovery efficiency using Equation 11:

$$R_v = \frac{M_{vr} + M_{vret}}{\sum_{i=1}^{p} C_{vi} M_i + \sum_{i=1}^{q} C_{vij} M_{ij}} \times 100$$

Equation 11

Where:

R_v = Organic volatile matter collection and recovery efficiency, percent.

M_{vr} = Mass of volatile matter recovered in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter

retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in this section.

p = Number of different coating materials applied in a month.

C_{vi} = Volatile organic content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{vij} = Volatile organic content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

(vii) *Organic HAP emitted.* Calculate the organic HAP emitted during the month using Equation 12:

$$H_e = \left[1 - \frac{R_v}{100}\right]\left[\sum_{i=1}^{p} C_{hi}M_i + \sum_{j=1}^{q} C_{hij}M_{ij} - M_{vret}\right]$$

Equation 12

Where:

H_e = Total monthly organic HAP emitted, kg.

R_v = Organic volatile matter collection and recovery efficiency, percent.

p = Number of different coating materials applied in a month.

C_{hi} = Organic HAP content of coating material, i, as-purchased, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{hij} = Organic HAP content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in this section.

(viii) *Organic HAP emission rate based on coating solids applied.* Calculate the organic HAP emission rate based on coating solids applied using Equation 13:

$$L = \frac{H_e}{\sum_{i=1}^{p} C_{si}M_i + \sum_{j=1}^{q} C_{sij}M_{ij}}$$

Equation 13

Where:

L = Mass organic HAP emitted per mass of coating solids applied, kg/kg.

H_e = Total monthly organic HAP emitted, kg.

p = Number of different coating materials applied in a month.

C_{si} = Coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{sij} = Coating solids content of material, j, added to as-purchased coating material, i, expressed as a mass-fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

(ix) *Organic HAP emission rate based on coating materials applied.* Calculate the organic HAP emission rate based on coating material applied using Equation 14:

$$S = \frac{H_e}{\sum_{i=1}^{p} M_i + \sum_{j=1}^{q} M_{ij}}$$

Equation 14

Where:

S = Mass organic HAP emitted per mass of material applied, kg/kg.

H_e = Total monthly organic HAP emitted, kg.

p = Number of different coating materials applied in a month.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

(x) You are in compliance with the emission standards in § 63.3320(b) if:

(A) The volatile organic matter collection and recovery efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(B) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(C) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(D) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (m) of this section.

(2) *Continuous emission monitoring of capture system and control device performance.* Demonstrate initial compliance through a performance test on capture efficiency and continuing compliance through continuous emission monitors and continuous monitoring of capture system operating parameters following the procedures in paragraphs (j)(2)(i) through (vii) of this

section. Use the applicable equations specified in paragraphs (j)(2)(viii) through (x) of this section to convert the monitoring and other data into units of the selected compliance option in paragraphs (f) through (i) of this section. Compliance is determined in accordance with paragraph (j)(2)(xi) of this section.

(i) *Control device efficiency.* Continuously monitor the gas stream entering and exiting the control device to determine the total organic volatile matter mass flow rate (*e.g.,* by determining the concentration of the vent gas in grams per cubic meter and the volumetric flow rate in cubic meters per second such that the total organic volatile matter mass flow rate in grams per second can be calculated) such that the control device efficiency of the control device can be calculated for each month using Equation 2 of § 63.3360.

(ii) *Capture efficiency monitoring.* Whenever a web coating line is operated, continuously monitor the operating parameters established in accordance with § 63.3350(f) to ensure capture efficiency.

(iii) Determine the percent capture efficiency in accordance with § 63.3360(f).

(iv) *Control efficiency.* Calculate the overall organic HAP control efficiency achieved for each month using Equation 15:

$$R = \frac{(E)(CE)}{100}$$

Equation 15

Where:

R = Overall organic HAP control efficiency, percent.

E = Organic volatile matter control efficiency of the control device, percent.

CE = Organic volatile matter capture efficiency of the capture system, percent.

(v) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied, organic HAP emission rate based on coating materials applied, or emission of less than the calculated allowable organic HAP, determine the mass of each coating material applied on the web coating line or group of web coating lines controlled by a common control device during the month.

(vi) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied, organic HAP emission rate based on coating material applied, or emission of less than the calculated allowable organic HAP, determine the organic HAP content of each coating material as-applied during the month following the procedure in § 63.3360(c).

(vii) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied or emission of less than the calculated allowable organic HAP, determine the coating solids content of each coating material as-applied during the month following the procedure in § 63.3360(d).

(viii) *Organic HAP emitted.* Calculate the organic HAP emitted during the month for each month using Equation 16:

$$H_e = (1 - R)\left(\sum_{i=1}^{p} C_{ahi} M_i\right) - M_{vret}$$

Equation 16

Where:

H_e = Total monthly organic HAP emitted, kg.

R = Overall organic HAP control efficiency, percent.

p = Number of different coating materials applied in a month.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in this section.

(ix) *Organic HAP emission rate based on coating solids applied.* Calculate the organic HAP emission rate based on coating solids applied using Equation 13 of this section.

(x) *Organic HAP emission rate based on coating materials applied.* Calculate the organic HAP emission rate based on coating material applied using Equation 14 of this section.

(xi) *Compare actual performance to the performance required by compliance option.* The affected source is in compliance with the emission standards in § 63.3320(b) for each month if the capture system is operated such that the average capture system operating parameter is greater than or less than (as appropriate) the operating parameter value established in accordance with § 63.3350(f); and

(A) The organic volatile matter collection and recovery efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(B) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(C) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(D) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (m) of this section.

(k) *Capture and control system compliance demonstration procedures using a CPMS.* If you use an add-on control device, you must demonstrate initial compliance for each capture system and each control device through performance tests and demonstrate continuing compliance through continuous monitoring of capture system and control device operating parameters as specified in paragraphs (k)(1) through (3) of this section. Compliance is determined in accordance with paragraph (k)(4) or (k)(5) of this section.

(1) Determine the control device destruction or removal efficiency using

the applicable test methods and procedures in § 63.3360(e).

(2) Determine the emission capture efficiency in accordance with § 63.3360(f).

(3) Whenever a web coating line is operated, continuously monitor the operating parameters established according to § 63.3350(e) and (f).

(4) *No operating limit deviations.* You are in compliance with the emission standards in § 63.3320(b) if the thermal oxidizer is operated such that the average combustion temperature does not fall more than 50 degrees Fahrenheit below the temperature established in accordance with § 63.3360(e)(3)(i) for each 3-hour period or if the catalytic oxidizer is operating such that the three-hour average temperature difference across the bed does not fall more than 80 percent of the average temperature established in accordance with § 63.3360(e)(3)(ii) and the minimum temperature is always 50 degrees Fahrenheit above the catalyst's ignition temperature, or the catalytic oxidizer average combustion temperature does not fall more than 50 °F below the temperature established in accordance with § 63.3360(e)(3)(ii) for each 3-hour period, and the capture system operating parameter is operated at an average value greater than or less than (as appropriate) the operating parameter value established in accordance with § 63.3350(f); and

(i) The overall organic HAP control efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(ii) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(iii) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(iv) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (m) of this section.

(5) *Operating limit deviations.* If one or more operating limit deviations occurred during the monthly averaging period, compliance with the emission standards in § 63.3320(b) is determined by either assuming no control of emissions or by estimating the emissions using a control destruction efficiency curve during each 3-hour period that was a deviation. You are in compliance with the emission standards in § 63.3320(b) if, including the periods of deviations:

(i) The overall organic HAP control efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(ii) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(iii) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(iv) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (m) of this section.

(l) *Oxidizer compliance demonstration procedures.* If you use an oxidizer to control emissions to comply with this subpart, you must show compliance by following the procedures in paragraph (l)(1) of this section. Use the applicable equations specified in paragraph (l)(2) of this section to convert the monitoring and other data into units of the selected compliance option in paragraph (f) through (i) of this section. Compliance is determined in accordance with paragraph (l)(3) or (l)(4) of this section.

(1) Demonstrate initial compliance through performance tests of capture efficiency and control device efficiency and continuing compliance through continuous monitoring of capture system and control device operating parameters as specified in paragraphs (l)(1)(i) through (vi) of this section:

(i) Determine the oxidizer destruction efficiency using the procedure in § 63.3360(e).

(ii) Determine the capture system capture efficiency in accordance with § 63.3360(f).

(iii) *Capture and control efficiency monitoring.* Whenever a web coating line is operated, continuously monitor the operating parameters established in accordance with § 63.3350(e) and (f) to ensure capture and control efficiency.

(iv) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied, organic HAP emission rate based on coating materials applied, or emission of less than the calculated allowable organic HAP, determine the mass of each coating material applied on the web coating line or group of web coating lines controlled by a common oxidizer during the month.

(v) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied, organic HAP emission rate based on coating material applied, or emission of less than the calculated allowable organic HAP, determine the organic HAP content of each coating material as-applied during the month following the procedure in § 63.3360(c).

(vi) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied or emission of less than the calculated allowable organic HAP, determine the coating solids content of each coating material applied during the month following the procedure in § 63.3360(d).

(2) Convert the information obtained under paragraph (q)(1) of this section into the units of the selected compliance option using the calculation procedures specified in paragraphs (l)(2)(i) through (iv) of this section.

(i) *Control efficiency.* Calculate the overall organic HAP control efficiency achieved using Equation 15.

(ii) *Organic HAP emitted.* Calculate the organic HAP emitted during the month using Equation 16.

(iii) *Organic HAP emission rate based on coating solids applied.* Calculate the organic HAP emission rate based on coating solids applied for each month using Equation 13.

(iv) *Organic HAP emission rate based on coating materials applied.* Calculate the organic HAP emission rate based on coating material applied using Equation 14.

(3) *No operating limit deviations.* You are in compliance with the emission standards in § 63.3320(b) if the oxidizer is operated such that the average combustion temperature does not fall more than 50 degrees Fahrenheit below the temperature established in accordance with § 63.3360(e)(3)(i) for each 3-hour period, or the catalytic oxidizer average combustion temperature does not fall more than 50 degrees Fahrenheit below the temperature established in accordance with § 63.3360(e)(3)(ii) for each 3-hour period or the temperature difference across the bed does not fall more than 80 percent of the average temperature established in accordance with § 63.3360(e)(3)(ii) and the minimum temperature is always 50 degrees Fahrenheit above the catalyst's ignition temperature, and the capture system operating parameter is operated at an average value greater than or less than (as appropriate) the operating parameter value established in accordance with § 63.3350(f); and

(i) The overall organic HAP control efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(ii) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(iii) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(iv) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (m) of this section.

(4) *Operating limit deviations.* If one or more operating limit deviations occurred during the monthly averaging period, compliance with the emission standards in § 63.3320(b) is determined by assuming no control of emissions or by estimating the emissions using a control destruction efficiency curve during each 3-hour period that was a deviation. You are in compliance with the emission standards in § 63.3320(b) if, including the periods of deviation:

(i) The overall organic HAP control efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(ii) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(iii) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(iv) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (m) of this section.

(m) *Monthly allowable organic HAP emissions.* This paragraph provides the procedures and calculations for determining monthly allowable organic HAP emissions for use in demonstrating compliance in accordance with paragraph (d), (i), (j)(1)(x)(D), (j)(2)(xi)(D), or (l)(3)(iv) of this section. You will need to determine the amount of coating material applied at greater than or equal to 20 mass percent coating solids and the amount of coating material applied at less than 20 mass percent coating solids. The allowable organic HAP limit is then calculated based on coating material applied at greater than or equal to 20 mass percent coating solids complying with 0.2 kg organic HAP per kg coating solids at an existing affected source or 0.08 kg organic HAP per kg coating solids at a new affected source, and coating material applied at less than 20 mass percent coating solids complying with 4 mass percent organic HAP at an existing affected source and 1.6 mass-percent organic HAP at a new affected source as follows:

(1) Determine the as-purchased mass of each coating material applied each month.

(2) Determine the as-purchased coating solids content of each coating material applied each month in accordance with § 63.3360(d)(1).

(3) Determine the as-purchased mass fraction of each coating material which was applied at 20 mass percent or greater coating solids content on an as-applied basis.

(4) Determine the total mass of each solvent, diluent, thinner, or reducer added to coating materials which were applied at less than 20 mass percent coating solids content on an as-applied basis each month.

(5) Calculate the monthly allowable organic HAP emissions using Equation 17 for an existing affected source:

$$H_a = 0.20\left[\sum_{i=1}^{p} M_i G_i C_{si}\right] + 0.04\left[\sum_{i=1}^{p} M_i(1-G_i) + \sum_{j=1}^{q} M_{L_j}\right]$$

Equation 17

Where:

H_a = Monthly allowable organic HAP emissions, kg.

p = Number of different coating materials applied in a month.

M_i = mass of as-purchased coating material, i, applied in a month, kg.

G_i = Mass fraction of each coating material, i, which was applied at 20 mass percent or greater coating solids content, on an as-applied basis, kg/kg.

C_{si} = Coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

q = Number of different materials added to the coating material.

M_{Lj} = Mass of non-coating-solids-containing coating material, j, added to coating-solids-containing coating materials which were applied at less than 20 mass percent coating solids content, on an as-applied basis, in a month, kg.

or Equation 18 for a new affected source:

$$H_a = 0.08\left[\sum_{i=1}^{p} M_i G_i C_{si}\right] + 0.016\left[\sum_{i=1}^{p} M_i(1-G_i) + \sum_{j=1}^{q} M_{L_j}\right]$$

Equation 18

Where:

H_a = Monthly allowable organic HAP emissions, kg.

p = Number of different coating materials applied in a month.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

G_i = Mass fraction of each coating material, i, which was applied at 20 mass percent or greater coating solids content, on an as-applied basis, kg/kg.

C_{si} = Coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

q = Number of different materials added to the coating material.

M_{Lj} = Mass of non-coating-solids-containing coating material, j, added to coating-solids-containing coating materials which were applied at less than 20 mass percent coating solids content, on an as-applied basis, in a month, kg.

* * * * *

(o) *Combinations of capture and control.* If you operate more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controlled work stations,

you must calculate organic HAP emissions according to the procedures in paragraphs (o)(1) through (4) of this section, and use the calculation procedures specified in paragraph (o)(5) of this section to convert the monitoring and other data into units of the selected control option in paragraphs (f) through (i) of this section. Use the procedures specified in paragraph (o)(6) of this section to demonstrate compliance.

(1) *Solvent recovery system using liquid-liquid material balance compliance demonstration.* If you choose to comply by means of a liquid-liquid material balance for each solvent recovery system used to control one or more web coating lines, you must determine the organic HAP emissions for those web coating lines controlled by that solvent recovery system either:

(i) In accordance with paragraphs (j)(1)(i) through (iii) and (v) through (vii) of this section, if the web coating lines controlled by that solvent recovery system have only always-controlled work stations; or

(ii) In accordance with paragraphs (j)(1)(ii), (iii), (v), and (vi) and (p) of this section, if the web coating lines controlled by that solvent recovery system have one or more never-controlled or intermittently-controlled work stations.

(2) *Solvent recovery system using performance test compliance demonstration and CEMS.* To demonstrate compliance through an initial test of capture efficiency, continuous monitoring of a capture system operating parameter, and a CEMS on each solvent recovery system used to control one or more web coating lines, you must:

(i) For each capture system delivering emissions to that solvent recovery system, monitor the operating parameter established in accordance with § 63.3350(f) to ensure capture system efficiency; and

(ii) Determine the organic HAP emissions for those web coating lines served by each capture system delivering emissions to that solvent recovery system either:

(A) In accordance with paragraphs (j)(2)(i) through (iii), (v), (vi), and (viii) of this section, if the web coating lines served by that capture and control system have only always-controlled work stations; or

(B) In accordance with paragraphs (j)(2)(i) through (iii), (vi), and (p) of this section, if the web coating lines served by that capture and control system have one or more never-controlled or intermittently-controlled work stations.

(3) *Oxidizer.* To demonstrate compliance through performance tests of capture efficiency and control device efficiency, continuous monitoring of capture system, and CPMS for control device operating parameters for each oxidizer used to control emissions from one or more web coating lines, you must:

(i) Monitor the operating parameter in accordance with § 63.3350(e) to ensure control device efficiency; and

(ii) For each capture system delivering emissions to that oxidizer, monitor the operating parameter established in accordance with § 63.3350(f) to ensure capture efficiency; and

(iii) Determine the organic HAP emissions for those web coating lines served by each capture system delivering emissions to that oxidizer either:

(A) In accordance with paragraphs (l)(1)(i) through (vi) of this section, if the web coating lines served by that capture and control system have only always-controlled work stations; or

(B) In accordance with paragraphs (l)(1)(i) through (iii), (v), and (p) of this section, if the web coating lines served by that capture and control system have one or more never-controlled or intermittently-controlled work stations.

(4) *Uncontrolled coating lines.* If you own or operate one or more uncontrolled web coating lines, you must determine the organic HAP applied on those web coating lines using Equation 10. The organic HAP emitted from an uncontrolled web coating line is equal to the organic HAP applied on that web coating line.

(5) Convert the information obtained under paragraphs (o)(1) through (4) of this section into the units of the selected compliance option using the calculation procedures specified in paragraphs (o)(5)(i) through (iv) of this section.

(i) *Organic HAP emitted.* Calculate the organic HAP emissions for the affected source for the month by summing all organic HAP emissions calculated according to paragraphs (o)(1), (o)(2)(ii), (o)(3)(iii), and (o)(4) of this section.

(ii) *Coating solids applied.* If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied or emission of less than the calculated allowable organic HAP, the owner or operator must determine the coating solids content of each coating material applied during the month following the procedure in § 63.3360(d).

(iii) *Organic HAP emission rate based on coating solids applied.* Calculate the organic HAP emission rate based on coating solids applied for each month using Equation 13.

(iv) *Organic HAP based on materials applied.* Calculate the organic HAP emission rate based on material applied using Equation 14.

(6) *Compliance.* The affected source is in compliance with the emission standards in § 63.3320(b) for the month if all operating parameters required to be monitored under paragraphs (o)(1) through (3) of this section were maintained at the values established under §§ 63.3350 and 63.3360 and one of the standards in paragraphs (o)(6)(i) through (iv) of this section were met. If operating parameter deviations occurred, the affected source is in compliance with the emission standards in § 63.3320(b) for the month if, assuming no control of emissions or by estimating the emissions using a control destruction efficiency curve for each 3-hour deviation period, one of the standards in paragraphs (6)(i) through (iv) of this section were met.

(i) The total mass of organic HAP emitted by the affected source based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(ii) The total mass of organic HAP emitted by the affected source based on material applied is no more than 0.04 kg organic HAP per kg material applied at an existing affected source and no more than 0.016 kg organic HAP per kg material applied at a new affected source; or

(iii) The total mass of organic HAP emitted by the affected source during the month is less than the calculated allowable organic HAP as determined using paragraph (m) of this section; or

(iv) The total mass of organic HAP emitted by the affected source was not more than 5 percent of the total mass of organic HAP applied for the month at an existing affected source and no more than 2 percent of the total mass of organic HAP applied for the month at a new affected source. The total mass of organic HAP applied by the affected source in the month must be determined using Equation 10.

(p) *Intermittently-controlled and never-controlled work stations.* If you have been expressly referenced to this paragraph by paragraph (o)(1)(ii), (o)(2)(ii)(B), or (o)(3)(iii)(B) of this section for calculation procedures to determine organic HAP emissions for your intermittently-controlled and never-controlled work stations, you must:

(1) Determine the sum of the mass of all coating materials as-applied on intermittently-controlled work stations operating in bypass mode and the mass of all coating materials as-applied on

never-controlled work stations during the month.

(2) Determine the sum of the mass of all coating materials as-applied on intermittently-controlled work stations operating in a controlled mode and the mass of all coating materials applied on always-controlled work stations during the month.

(3) *Liquid-liquid material balance compliance demonstration.* For each web coating line or group of web coating lines for which you use the provisions of paragraph (o)(1)(ii) of this section, you must calculate the organic HAP emitted during the month using Equation 19 of this section:

$$H_e = \left[\sum_{i=1}^{p} M_{Ci} C_{ahi}\right]\left[1 - \frac{R_v}{100}\right] + \left[\sum_{i=1}^{p} M_{Bi} C_{ahi}\right] - M_{vret}$$

Equation 19

Where:

H_e = Total monthly organic HAP emitted, kg.

p = Number of different coating materials applied in a month.

M_{ci} = Sum of the mass of coating material, i, as-applied on intermittently-controlled work stations operating in controlled mode and the mass of coating material, i, as-applied on always-controlled work stations, in a month, kg.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

R_v = Organic volatile matter collection and recovery efficiency, percent.

M_{Bi} = Sum of the mass of coating material, i, as-applied on intermittently-controlled work stations operating in bypass mode and the mass of coating material, i, as-applied on never-controlled work stations, in a month, kg.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in this section.

(4) *Performance test to determine capture efficiency and control device efficiency.* For each web coating line or group of web coating lines for which you use the provisions of paragraph (o)(2)(ii)(B) or (o)(3)(iii)(B) of this section, you must calculate the organic HAP emitted during the month using Equation 20:

$$H_e = \left[\sum_{i=1}^{p} M_{Ci} C_{ahi}\right]\left[1 - \frac{R}{100}\right] + \left[\sum_{i=1}^{p} M_{Bi} C_{ahi}\right] - M_{vret}$$

Equation 20

Where:

H_e = Total monthly organic HAP emitted, kg.

p = Number of different coating materials applied in a month.

M_{ci} = Sum of the mass of coating material, i, as-applied on intermittently-controlled work stations operating in controlled mode and the mass of coating material, i, as-applied on always-controlled work stations, in a month, kg.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

R = Overall organic HAP control efficiency, percent.

M_{Bi} = Sum of the mass of coating material, i, as-applied on intermittently-controlled work stations operating in bypass mode and the mass of coating material, i, as-applied on never-controlled work stations, in a month, kg.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in this section.

(q) *Always-controlled work stations with more than one capture and control system.* If you operate more than one capture system or more than one control device and only have always-controlled work stations, then you are in compliance with the emission standards in § 63.3320(b)(1) for the month if for each web coating line or group of web coating lines controlled by a common control device:

(1) The volatile matter collection and recovery efficiency as determined by paragraphs (j)(1)(i), (iii), (v), and (vi) of this section is at least 95 percent at an existing affected source and at least 98 percent at a new affected source; or

(2) The overall organic HAP control efficiency as determined by paragraphs (j)(2)(i) through (iv) of this section for each web coating line or group of web coating lines served by that control device and a common capture system is at least 95 percent at an existing affected source and at least 98 percent at a new affected source; or

(3) The overall organic HAP control efficiency as determined by paragraphs (l)(1)(i) through (iii) and (l)(2)(i) of this section for each web coating line or group of web coating lines served by that control device and a common capture system is at least 95 percent at an existing affected source and at least 98 percent at a new affected source.

(r) *Mass-balance approach.* As an alternative to § 63.3370(b) through (p), you may demonstrate monthly compliance using a mass-balance approach in accordance with this section, except for any month that you elect to meet the emission limitation in § 63.3320(b)(4). The mass-balance approach should be performed as follows:

(1) Separately for each individual/grouping(s) of lines, you must sum the mass of organic HAP emitted during the month and divide by the corresponding total mass of all organic HAP applied on the lines, or total mass of coating materials applied on the lines, or total mass of coating solids applied on the lines, for the same period, in accordance with the emission limitation that you have elected at § 63.3320(b)(1) through (3) for the month's demonstration. You may also choose to use volatile organic content as a surrogate for organic HAP for the compliance demonstration in accordance with § 63.3360(d). You are required to include all emissions and inputs that occur during periods that each line or grouping of lines operates in accordance with the applicability criteria in § 63.3300.

(2) You must include all of the organic HAP emitted by your individual/grouping(s) of lines, as follows.

(i) You must record the mass of organic HAP or volatile organic content utilized at all work stations of all of your individually/grouping(s) of lines. You must additionally record the mass of all coating materials applied at these work stations if you are demonstrating compliance for the month with the emission limitation at § 63.3320(b)(2) (the ''coating materials'' option). You must additionally record the mass of all coating solids applied at these work stations if you are demonstrating compliance for the month with the emission limitation at § 63.3320(b)(3) (the ''coating solids'' option).

(ii) You must assume that all of the organic HAP input to all never-controlled work stations is emitted, unless you have determined an emission factor in accordance with § 63.3360(g).

(iii) For all always-controlled work stations, you must assume that all of the organic HAP or volatile organic content is emitted, less the reductions provided by the corresponding capture system and control device, in accordance with the most recently measured capture and destruction efficiencies, or in accordance with the measured mass of volatile organic compounds (VOC) recovered for the month (*e.g.,* carbon control or condensers). You may account for organic HAP or volatile organic content retained in the coated web or otherwise not emitted if you have determined an emission factor in accordance with § 63.3360(g).

(iv) For all intermittently-controlled work stations, you must assume that all of the organic HAP or volatile organic content is emitted during periods of no control. During periods of control, you must assume that all of the organic HAP or volatile organic content is emitted, less the reductions provided by the corresponding capture system and control device, in accordance with the most recently measured capture and destruction efficiencies, or in accordance with the measured mass of VOC recovered for the month (*e.g.,* carbon control or condensers). You may account for organic HAP or volatile organic content retained in the coated web or otherwise not emitted if you have determined an emission factor in accordance with § 63.3360(g).

(v) You must record the organic HAP or volatile organic content input to all work stations of your individual/grouping(s) of lines and the mass of coating materials and/or solids applied, if applicable, and determine corresponding emissions during all periods of operation, including malfunctions or startups and shutdowns of any web coating line or control device.

(3) You are in compliance with the emission standards in § 63.3320(b) if each of your individual/grouping(s) of lines, meets one of the requirements in paragraphs (r)(3)(i) through (iii) of this section, as applicable. If operating parameter limit deviations occurred, including periods that the oxidizer control device(s), if any, operated at an average combustion temperature more than 50 degrees Fahrenheit below the temperature established in accordance with § 63.3360(e), or the 3-hour average temperature difference across the catalyst bed at no less than 80 percent of this average temperature differential and the catalytic oxidizer maintained a minimum temperature 50 degrees Fahrenheit above the catalyst's ignition temperature, you are in compliance with the emission standards in § 63.3320(b) for the month, if assuming no control of emissions for each 3-hour deviation period (or in accordance with an alternate approved method), one of the requirements in paragraphs (r)(3)(i) through (iii) of this section was met.

(i) The total mass of organic HAP emitted by the affected source based on HAP applied is no more than 0.05 kg organic HAP per kg HAP applied at an existing affected source and no more than 0.02 kg organic HAP per kg HAP applied at a new affected source; or

(ii) The total mass of organic HAP emitted by the affected source based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(iii) The total mass of organic HAP emitted by the affected source based on material applied is no more than 0.04 kg organic HAP per kg material applied at an existing affected source and no more than 0.016 kg organic HAP per kg material applied at a new affected source.

(s) *Non-HAP coating.* You must demonstrate that all of the coatings applied at all of the web coating lines at the affected source have organic HAP contents below 0.1 percent by mass for OSHA-defined carcinogens as specified in section A.6.4 of appendix A to 29 CFR 1910.1200, and below 1.0 percent by mass for other organic HAP compounds using the procedures in § 63.3370(s)(1) through (3).

(1) Determine the organic HAP mass fraction of each coating material ''as purchased'' by following one of the procedures in paragraphs § 63.3360(c)(1) through (3) and determine the organic HAP mass fraction of each coating material ''as applied'' by following the procedures in paragraph § 63.3360(c)(4).

(2) Submit to your permitting authority a report certifying that all coatings applied at all of the web coating lines at your effected source are non-HAP coatings.

(3) Maintain records of coating formulations used as required in § 63.3410(a)(1)(iii).

(4) Resume reporting requirements if any of the coating formulations are modified to exceed the thresholds in § 63.3370(s) or new coatings which exceed the thresholds in paragraph (s) of this section are used.

■ 12. Section 63.3400 is amended by:
■ a. Revising paragraph (a) and paragraph (b) introductory text;
■ b. Revising paragraphs (c)(1)(ii) and (iv), (c)(2) introductory text, (c)(2)(v) and (vi), (e), and (f);
■ c. Redesignating paragraph (g) as paragraph (k) and revising newly redesignated (k) introductory text; and
■ d. Adding new paragraph (g) and paragraphs (h), (i), and (j).

The revisions and additions read as follows:

§ 63.3400 What notifications and reports must I submit?

(a) *Reports.* Each owner or operator of an affected source subject to this subpart must submit the reports specified in paragraphs (b) through (k) of this section to the Administrator.

(b) *Initial notifications.* You must submit an initial notification as required by § 63.9(b), using the procedure in § 63.3400(h).

* * * * *

(c) * * *

(1) * * *

(ii) The first compliance report is due no later than July 31 or January 31, whichever date follows the end of the calendar half immediately following the compliance date that is specified for your affected source in § 63.3330. Prior to the electronic template being available in CEDRI for one year, the report must be postmarked or delivered by the aforementioned dates. After the electronic template has been available in CEDRI for 1 year, the next full report must be submitted electronically as described in paragraph (h) of this section.

* * * * *

(iv) Each subsequent compliance report must be submitted electronically no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

* * * * *

(2) *Compliance report contents.* The compliance report must contain the

information in paragraphs (c)(2)(i) through (viii) of this section:

* * * * *

(v) For each deviation from an emission limitation (emission limit or operating limit) that applies to you and that occurs at an affected source where you are not using a CMS to comply with the emission limitations in this subpart, the compliance report must contain the following information:

(A) The total operating time of the web coating line(s) during the reporting period.

(B) Information on the number, duration, and cause of deviations (including unknown cause), if applicable, and the corrective action taken.

(C) An estimate of the quantity of each regulated pollutant emitted over the emission limits in § 63.3320 for each monthly period covered in the report if the source failed to meet an applicable emission limit of this subpart.

(vi) For each deviation from an emission limit occurring at an affected source where you are using a CEMS or CPMS to comply with the emission limit in this subpart, you must include the following information:

(A) The total operating time of the web coating line(s) during the reporting period.

(B) The date and time that each CEMS and CPMS, if applicable, was inoperative except for zero (low-level) and high-level checks.

(C) The date and time that each CEMS and CPMS, if applicable, was out-of-control, including the information in § 63.8(c)(8).

(D) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(E) A summary of the total duration (in hours) of each deviation during the reporting period and the total duration of each deviation as a percent of the total source operating time during that reporting period.

(F) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(G) A summary of the total duration (in hours) of CEMS and/or CPMS downtime during the reporting period and the total duration of CEMS and/or CPMS downtime as a percent of the total source operating time during that reporting period.

(H) A breakdown of the total duration of CEMS and/or CPMS downtime during the reporting period into periods that are due to monitoring equipment malfunctions, non-monitoring equipment malfunctions, quality assurance/quality control calibrations, other known causes, and other unknown causes.

(I) The date of the latest CEMS and/or CPMS certification or audit.

(J) A description of any changes in CEMS, CPMS, or controls since the last reporting period.

(K) An estimate of the quantity of each regulated pollutant emitted over the emission limits in § 63.3320 for each monthly period covered in the report if the source failed to meet an applicable emission limit of this subpart.

* * * * *

(e) *Notification of Compliance Status.* You must submit a Notification of Compliance Status as specified in § 63.9(h). For affected sources that commence construction or reconstruction after September 19, 2019, the Notification of Compliance Status must be submitted electronically using the procedure in paragraph (h) of this section. For affected sources that commenced construction or reconstruction on or before September 19, 2019, the Notification of Compliance Status must be submitted electronically using the procedure in paragraph (h) starting July 9, 2021.

(f) *Performance test reports.* You must submit performance test reports as specified in § 63.10(d)(2) if you are using a control device to comply with the emission standard and you have not obtained a waiver from the performance test requirement or you are not exempted from this requirement by § 63.3360(b). Catalyst activity test results are not required to be submitted but must be maintained onsite. 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 (f)(1) through (3) of this section. For affected sources that commence construction or reconstruction after September 19, 2019, the performance test reports must be submitted electronically using the procedure in paragraph (h) of this section. For affected sources that commenced construction or reconstruction on or before September 19, 2019, the performance test reports must be submitted electronically using the procedure in paragraph (h) starting July 9, 2021.

(1) *Data collected using test methods supported by EPA's Electronic Reporting Tool (ERT) as listed on 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 EPA via CEDRI, which can be accessed through EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/).* The data must be submitted in a file format generated through the use of EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on EPA's ERT website.

(2) *Data collected using test methods that are not supported by EPA's ERT as listed on 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 EPA's ERT website. Submit the ERT generated package or alternative file to EPA via CEDRI.

(3) *Confidential business information (CBI).* If you claim some of the information submitted under paragraph (f)(1) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to EPA. The file must be generated through the use of EPA's ERT or an alternate electronic file consistent with the XML schema listed on 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 EPA via EPA's CDX as described in paragraph (f)(1) of this section.

(g) *Performance evaluation reports.* You must submit the results of performance evaluations within 60 days of completing each CMS performance evaluation (as defined in § 63.2) following the procedures specified in paragraphs (g)(1) through (3) of this section. For affected sources that commence construction or reconstruction after September 19, 2019, the performance evaluation reports must be submitted electronically using the procedure in paragraph (h) of this section. For affected sources that commenced construction or reconstruction on or before September 19, 2019, the performance evaluation reports must be submitted electronically using the procedure in paragraph (h) starting July 9, 2021.

(1) *Performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants that are supported by EPA's ERT as listed on EPA's ERT*

website at the time of the evaluation. Submit the results of the performance evaluation to EPA via CEDRI, which can be accessed through EPA's CDX. The data must be submitted in a file format generated through the use of EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on EPA's ERT website.

(2) *Performance evaluations of CMS measuring RATA pollutants that are not supported by EPA's ERT as listed on 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 EPA's ERT website. Submit the ERT generated package or alternative file to EPA via CEDRI.

(3) *Confidential business information (CBI).* If you claim some of the information submitted under paragraph (g)(1) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to EPA. The file must be generated through the use of EPA's ERT or an alternate electronic file consistent with the XML schema listed on 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 EPA via EPA's CDX as described in paragraph (g)(1) of this section.

(h) *Electronic reporting.* If you are required to submit reports following the procedure specified in this paragraph, you must submit reports to EPA via CEDRI, which can be accessed through EPA's CDX (*https://cdx.epa.gov/).* Initial notifications and notifications of compliance status must be submitted as portable document formats (PDF) to CEDRI using the attachment module of the ERT. You must use the semiannual 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 1 year after it becomes available. The date report templates become available will be listed on the CEDRI website. The 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 CBI, submit a complete report, including information claimed to be CBI to 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 EPA via EPA's CDX as described earlier in this paragraph.

(i) *Extension for CDX/CEDRI outage.* If you are required to electronically submit a report through CEDRI in 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 (i)(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 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) 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 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.

(j) *Extension for force majeure events.* If you are required to electronically submit a report through CEDRI in 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 (j)(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) 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.

(k) *SSM reports.* For affected sources that commenced construction or reconstruction before September 19, 2019, you must submit SSM reports as specified in § 63.10(d)(5), except that the provisions in subpart A of this part pertaining to startups, shutdowns, and malfunctions do not apply unless a control device is used to comply with this subpart. On and after, July 9, 2021, and for affected sources that commence construction or reconstruction after

September 19, 2019, this section is no longer relevant.

* * * * *

■ 13. Section 63.3410 is revised to read as follows:

§ 63.3410 What records must I keep?

(a) Each owner or operator of an affected source subject to this subpart must maintain the records specified in paragraphs (a)(1) and (2) of this section on a monthly basis in accordance with the requirements of § 63.10(b)(1):

(1) Records specified in § 63.10(b)(2) of all measurements needed to demonstrate compliance with this standard as indicated in Table 2 to Subpart JJJJ of Part 63, including:

(i) Continuous emission monitor data in accordance with the requirements of § 63.3350(d);

(ii) Control device and capture system operating parameter data in accordance with the requirements of § 63.3350(c), (e), and (f);

(iii) Organic HAP content data for the purpose of demonstrating compliance in accordance with the requirements of § 63.3360(c);

(iv) Volatile matter and coating solids content data for the purpose of demonstrating compliance in accordance with the requirements of § 63.3360(d);

(v) Overall control efficiency determination using capture efficiency and control device destruction or removal efficiency test results in accordance with the requirements of § 63.3360(e) and (f);

(vi) Material usage, organic HAP usage, volatile matter usage, and coating solids usage and compliance demonstrations using these data in accordance with the requirements of § 63.3370(b), (c), and (d); and

(vii) Emission factor development calculations and HAP content for coating materials used to develop the emission factor as needed for § 63.3360(g).

(2) Records specified in § 63.10(c) for each CMS operated by the owner or operator in accordance with the requirements of § 63.3350(b), as indicated in Table 2 to Subpart JJJJ of Part 63.

(b) Each owner or operator of an affected source subject to this subpart must maintain records of all liquid-liquid material balances performed in accordance with the requirements of § 63.3370. The records must be maintained in accordance with the applicable requirements of § 63.10(b).

(c) For each deviation from an operating limit occurring at an affected source, you must record the following information.

(1) The total operating time the web coating line(s) controlled by the corresponding add-on control device and/or emission capture system during the reporting period.

(2) Date, time, duration, and cause of the deviations.

(3) If the facility determines by its monthly compliance demonstration, in accordance with § 63.3370, as applicable, that the source failed to meet an applicable emission limit of this subpart, you must record the following for the corresponding affected equipment:

(i) Record an estimate of the quantity of HAP (or VOC if used a surrogate in accordance with § 63.3360(d)) emitted in excess of the emission limit for the month, and a description of the method used to estimate the emissions.

(ii) Record actions taken to minimize emissions in accordance with § 63.3340(a), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(d) Records of results from the annual catalyst activity test, if applicable.

(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.

■ 14. Section 63.3420 is revised to read as follows:

§ 63.3420 What authorities may be delegated to the States?

(a) In delegating implementation and enforcement authority to a state, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (b) of this section must be retained by the EPA Administrator and not transferred to a state, local, or tribal agency.

(b) Authority which will not be delegated to state, local, or tribal agencies are listed in paragraphs (b)(1) and (2) of this section:

(1) Approval of alternate test method for organic HAP content determination under § 63.3360(c).

(2) Approval of alternate test method for volatile matter determination under § 63.3360(d).

■ 15. Table 1 to subpart JJJJ is revised to read as follows:

Table 1 to Subpart JJJJ of Part 63—Operating Limits if Using Add-On Control Devices and Capture System

If you are required to comply with operating limits by § 63.3321, you must comply with the applicable operating limits in the following table:

For the following device:	You must meet the following operating limit:	And you must demonstrate continuous compliance with operating limits by:
1. Thermal oxidizer	a. The average combustion temperature in any 3-hour period must not fall more than 50 °F below the combustion temperature limit established according to § 63.3360(e)(3)(i).	i. Collecting the combustion temperature data according to § 63.3350(e)(10); ii. Reducing the data to 3-hour block averages; and iii. Maintain the 3-hour average combustion temperature at or above the temperature limit.
2. Catalytic oxidizer	a. The average temperature at the inlet to the catalyst bed in any 3-hour period must not fall more than 50 degrees Fahrenheit below the combustion temperature limit established according to § 63.3360(e)(3)(ii).	i. Collecting the catalyst bed inlet temperature data according to § 63.3350(e)(10); ii. Reducing the data to 3-hour block averages; and iii. Maintain the 3-hour average catalyst bed inlet temperature at or above the temperature limit.
	b. The temperature rise across the catalyst bed must not fall below 80 percent of the limit established according to § 63.3360(e)(3)(ii), provided that the minimum temperature is always 50 degrees Fahrenheit above the catalyst's ignition temperature.	i. Collecting the catalyst bed inlet and outlet temperature data according to § 63.3350(e)(10); ii. Reducing the data to 3-hour block averages; and iii. Maintain the 3-hour average temperature rise across the catalyst bed at or above the limit, and maintain the minimum temperature at least 50 degrees Fahrenheit above the catalyst's ignition temperature

For the following device:	You must meet the following operating limit:	And you must demonstrate continuous compliance with operating limits by:
3. Emission capture system	Submit monitoring plan to the Administrator that identifies operating parameters to be monitored according to § 63.3350(f).	Conduct monitoring according to the plan (§ 63.3350(f)(3)).

■ 16. Table 2 to subpart JJJJ is revised to read as follows:

Table 2 to Subpart JJJJ of Part 63—Applicability of 40 CFR part 63 General Provisions to Subpart JJJJ

You must comply with the applicable General Provisions requirements according to the following table:

General provisions reference	Applicable to subpart JJJJ	Explanation
§ 63.1(a)(1)–(4)	Yes.	
§ 63.1(a)(5)	No	Reserved.
§ 63.1(a)(6)–(8)	Yes.	
§ 63.1(a)(9)	No	Reserved.
§ 63.1(a)(10)–(14)	Yes.	
§ 63.1(b)(1)	No	Subpart JJJJ specifies applicability.
§ 63.1(b)(2)–(3)	Yes.	
§ 63.1(c)(1)	Yes.	
§ 63.1(c)(2)	No	Area sources are not subject to emission standards of subpart JJJJ.
§ 63.1(c)(3)	No	Reserved.
§ 63.1(c)(4)	Yes.	
§ 63.1(c)(5)	Yes.	
§ 63.1(d)	No	Reserved.
§ 63.1(e)	Yes.	
§ 63.2	Yes	Additional definitions in subpart JJJJ.
§ 63.3(a)–(c)	Yes.	
§ 63.4(a)(1)–(3)	Yes.	
§ 63.4(a)(4)	No	Reserved.
§ 63.4(a)(5)	Yes.	
§ 63.4(b)–(c)	Yes.	
§ 63.5(a)(1)–(2)	Yes.	
§ 63.5(b)(1)	Yes.	
§ 63.5(b)(2)	No	Reserved.
§ 63.5(b)(3)–(6)	Yes.	
§ 63.5(c)	No	Reserved.
§ 63.5(d)	Yes.	
§ 63.5(e)	Yes.	
§ 63.5(f)	Yes.	
§ 63.6(a)	Yes	Applies only when capture and control system is used to comply with the standard.
§ 63.6(b)(1)–(5)	No	§ 63.3330 specifies compliance dates.
§ 63.6(b)(6)	No	Reserved.
§ 63.6(b)(7)	Yes.	
§ 63.6(c)(1)–(2)	Yes.	
§ 63.6(c)(3)–(4)	No	Reserved.
§ 63.6(c)(5)	Yes.	
§ 63.6(d)	No	Reserved.
§ 63.6(e)(1)(i)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019, see § 63.3340(a) for general duty requirement. Yes, for all other affected sources before July 9, 2021, and No thereafter, see § 63.3340(a) for general duty requirement.
§ 63.6(e)(1)(ii)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter.
§ 63.6(e)(1)(iii)	Yes.	
§ 63.6(e)(2)	No	Reserved.
§ 63.6(e)(3)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter.
§ 63.6(f)(1)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter.
§ 63.6(f)(2)–(3)	Yes.	
§ 63.6(g)	Yes.	
§ 63.6(h)	No	Subpart JJJJ does not require continuous opacity monitoring systems (COMS).

General provisions reference	Applicable to subpart JJJJ	Explanation
§ 63.6(i)(1)–(14)	Yes.	
§ 63.6(i)(15)	No	Reserved.
§ 63.6(i)(16)	Yes.	
§ 63.6(j)	Yes.	
§ 63.7(a)–(d)	Yes.	
§ 63.7(e)(1)	No	See § 63.3360(e)(2).
§ 63.7(e)(2)–(3)	Yes.	
§ 63.7(f)–(h)	Yes.	
§ 63.8(a)(1)–(2)	Yes.	
§ 63.8(a)(3)	No	Reserved.
§ 63.8(a)(4)	No	Subpart JJJJ does not have monitoring requirements for flares.
§ 63.8(b)	Yes.	
§ 63.8(c)(1) and § 63.8(c)(1)(i)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019, see § 63.3340(a) for general duty requirement. Yes, for all other affected sources before July 9, 2021, and No thereafter, see § 63.3340(a) for general duty requirement.
§ 63.8(c)(1)(ii)	Yes	§ 63.8(c)(1)(ii) only applies if you use capture and control systems.
§ 63.8(c)(1)(iii)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter.
§ 63.8(c)(2)–(3)	Yes	See § 63.3350(e)(10)(iv) for temperature sensor validation procedures
§ 63.8(c)(4)	No	§ 63.3350 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(5)	No	Subpart JJJJ does not require COMS.
§ 63.8(c)(6)–(8)	Yes	Provisions for COMS are not applicable.
§ 63.8(d)(1)–(2)	Yes	Refer to § 63.3350(e)(5) for CPMS quality control procedures to be included in the quality control program.
§ 63.8(d)(3)	No	§ 63.3350(e)(5) specifies the program of corrective action.
§ 63.8(e)–(f)	Yes	§ 63.8(e)(2) does not apply to CPMS. § 63.8(f)(6) only applies if you use CEMS.
§ 63.8(g)	Yes	Only applies if you use CEMS.
§ 63.9(a)	Yes.	
§ 63.9(b)(1)	Yes.	
§ 63.9(b)(2)	Yes	Except § 63.3400(b)(1) requires submittal of initial notification for existing affected sources no later than 1 year before compliance date.
§ 63.9(b)(3)–(5)	Yes.	
§ 63.9(c)–(e)	Yes.	
§ 63.9(f)	No	Subpart JJJJ does not require opacity and visible emissions observations.
§ 63.9(g)	Yes	Provisions for COMS are not applicable.
§ 63.9(h)(1)–(3)	Yes.	
§ 63.9(h)(4)	No	Reserved.
§ 63.9(h)(5)–(6)	Yes.	
§ 63.9(i)	Yes.	
§ 63.9(j)	Yes.	
§ 63.10(a)	Yes.	
§ 63.10(b)(1)	Yes.	
§ 63.10(b)(2)(i)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter.
§ 63.10(b)(2)(ii)	No	See § 63.3410 for recordkeeping of relevant information.
§ 63.10(b)(2)(iii)	Yes	§ 63.10(b)(2)(iii) only applies if you use a capture and control system.
§ 63.10(b)(2)(iv)–(v)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter.
§ 63.10(b)(2)(vi)–(xiv)	Yes.	
§ 63.10(b)(3)	Yes.	
§ 63.10(c)(1)	Yes.	
§ 63.10(c)(2)–(4)	No	Reserved.
§ 63.10(c)(5)–(8)	Yes.	
§ 63.10(c)(9)	No	Reserved.
§ 63.10(c)(10)–(14)	Yes.	
§ 63.10(c)(15)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter.
§ 63.10(d)(1)–(2)	Yes.	
§ 63.10(d)(3)	No	Subpart JJJJ does not require opacity and visible emissions observations.
§ 63.10(d)(4)	Yes.	

General provisions reference	Applicable to subpart JJJJ	Explanation
§ 63.10(d)(5)(i)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter. See § 63.3400(c) for malfunction reporting requirements.
§ 63.10(d)(5)(ii)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter. See § 63.3400(c) for malfunction reporting requirements.
§ 63.10(e)(1)–(2)	Yes	Provisions for COMS are not applicable.
§ 63.10(e)(3)–(4)	No	Subpart JJJJ does not require opacity and visible emissions observations.
§ 63.10(f)	Yes.	
§ 63.11	No	Subpart JJJJ does not specify use of flares for compliance.
§ 63.12	Yes.	
§ 63.13	Yes.	
§ 63.14	Yes	Subpart JJJJ includes provisions for alternative ASME and ASTM test methods that are incorporated by reference.
§ 63.15	Yes.	
§ 63.16	Yes.	

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S. 4116/P.L. 116–147

To extend the authority for commitments for the paycheck protection program and separate amounts authorized for other loans under section 7(a) of the Small Business Act, and for other purposes. (July 4, 2020; 134 Stat. 660)

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