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Editorial Note: The printed version of the **Federal Register** Table of Contents for July 24, 2020, FR Doc. 2020-15979, was incorrectly indexed. The correct index entry should read Foreign Affairs Policy Board.

Reader Aids

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1217

[Document Number AMS–SC–20–0031]

Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order; Change to the Board Membership Eligibility Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes the eligibility requirements for nominees representing domestic manufacturers on the Softwood Lumber Board (Board) under the Agricultural Marketing Service's (AMS) regulations regarding a national research and promotion program for softwood lumber. This change will help facilitate program operations.

DATES: Effective August 26, 2020.

FOR FURTHER INFORMATION CONTACT: Andrea Ricci, Marketing Specialist, Promotion and Economics Division, Specialty Crops Program, AMS, USDA, 755 E Nees Avenue #25985, Fresno, CA 93720; telephone: (202) 572–1442; or electronic mail: *Andrea.Ricci@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule affecting 7 CFR part 1217 (herein the ''Order'') is authorized by the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

Executive Order 13175

This action 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.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the 1996 Act (7 U.S.C. 7423) provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Section 519 of the 1996 Act (7 U.S.C. 7418) provides that a person subject to an order may file a written petition with U.S. Department of Agriculture (USDA) stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, must be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The 1996 Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Background

This rule changes the eligibility requirements for nominees representing domestic manufacturers on the Board. The Board administers the Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order (Order) with oversight by the USDA. Pursuant to the Order, assessments are collected from domestic manufacturers and importers, and are used for research and promotion projects designed to strengthen the position of softwood lumber in the marketplace. This change was recommended to the Secretary by the Board at its February 26, 2020, meeting, and will contribute to the effective administration of the program.

Section 1217.40 provides for the establishment of the Board. The Board is comprised of manufacturers for the U.S. market who manufacture and domestically ship or import 15 million board feet or more of softwood lumber in the United States during a fiscal period. In November 2018, the Board recommended revising the Board composition from 19 to 14 members over a three-year period. The Board took into consideration the consolidation of the softwood lumber industry since the inception of the program, along with the number of companies eligible to be represented on the Board. Additionally, the Board recommended that U.S. Board members reside in the region they represent. This was intended to ensure that entities from outside the U.S. that own softwood lumber entities within the U.S. could only represent a U.S. region on the Board if the individual seeking nomination resided in the respective region. The recommendation was finalized in a rule that was published in the **Federal Register** on September 25, 2019 (84 FR 50294). The 2021 Board and each subsequent Board shall be comprised of 14 members, 10 of whom shall represent domestic manufacturers and four of whom shall represent importers. Domestic manufacturer Board members represent three regions: U.S. South Region; U.S. West Region; and Northeast and Lake

States Region. The Order prescribes that domestic manufacturer representatives reside in the region they represent.

Board Recommendation

The Board met on February 26, 2020, and recommended the Order be revised to allow a domestic manufacturer's representative to seek nomination in any of the regions where the manufacturer they represent has manufacturing operations. The current Order limits manufacturer representatives to seek nomination only in the region where he or she resides. The Board conducted nominations under the newly implemented provisions and found that clarification in the Order was needed to reflect the multi-regional nature of manufacturers rather than the individual nominee. Several domestic manufacturers have operations in multiple U.S. regions. Revising the Order to allow a person to seek nomination in one of the regions where the manufacturer they represent has operations will provide flexibility to the Order, while maintaining the intent that Board members representing domestic manufacturers reside in the U.S. This change will help facilitate program operations. Therefore, § 1217.40 (b)(1), (b)(1)(i), (b)(1)(ii), and (b)(1)(iii) will be revised accordingly.

Final Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) is required to examine the impact of the action on small entities. Accordingly, AMS has considered the economic impact of this action on such entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to the actions so that small businesses will not be disproportionately burdened. The Small Business Administration (SBA) defines, in 13 CFR part 121, small agricultural service firms (domestic softwood lumber manufacturers and importers) as those having annual receipts of no more than $8 million.[1]

The Random Lengths Publications, Inc.'s yearly average framing lumber composite price was $356 per thousand board feet (mbf) in 2019. Dividing the $8 million threshold that defines an agricultural service firm as small by this price results in a maximum threshold of 22.5 million board feet (mmbf) of softwood lumber per year that a domestic manufacturer or importer may ship to be considered a small entity for purposes of the RFA. Table 1 shows the number of entities and the amount of volume they represent that may be categorized as small or large based on the SBA definition.

TABLE 1—DOMESTIC MANUFACTURERS AND IMPORTERS BY SBA SIZE STANDARDS

[2019]

	Domestic manufacturers		Importers		Totals	
	Entities	Volume (MMBF)	Entities	Volume (MMBF)	Entities	Volume (MMBF)
Small	226	1,991	774	1,257	1,000	3,248
Large	290	32,229	106	32,582	396	64,811
Total	516	34,220	880	33,839	1,396	68,059

Sources: Forest Economic Advisors; Customs and Border Protection.

As shown in Table 1, there are a total of 1,396 domestic manufacturers and importers of softwood lumber based on 2019 data. Of these, 1,000 entities, or 72 percent, shipped or imported less than 22.5 mmbf and would be considered small based on the SBA definition. These 1,000 entities domestically manufactured or imported 3.25 billion board feet (bbf) in 2019, less than 5 percent of total volume. The revision to the Board eligibility requirements will not disproportionately burden small domestic manufacturers and importers of softwood lumber.

This rule revises § 1217.40 (b)(1), (b)(1)(i), (b)(1)(ii), and (b)(1)(iii) to allow domestic softwood lumber manufacturer representatives to seek nomination in any of the regions where the manufacturer they represent has manufacturing operations. The Order is administered by the Board with oversight by the USDA. In accordance with the program requirements, assessments are collected from domestic manufacturers and importers, and are used for research and promotion projects designed to strengthen the position of softwood lumber in the marketplace. Revising the Order to allow a person to seek nomination in one of the regions where the softwood lumber manufacturer has operations will provide flexibility to the Order, while maintaining the intent that Board members representing domestic manufacturers reside in the U.S.

Regarding alternatives, the Board considered not changing the nominee eligibility requirements; however, the entire Board determined that making this change will better align the Order provisions with industry practices and will help facilitate Board operations. This change was discussed at the Industry Relations and Governance Committee meeting on February 18, 2020, and at the Board meeting on February 26, 2020.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that are imposed by the Order have been approved previously under OMB control number 0581–0093. This rule will not result in a change to the information collection and recordkeeping requirements previously approved and will impose no additional reporting and recordkeeping burden on domestic manufacturers and importers of softwood lumber.

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules

[1] SBA does have a small business size standard for ''Sawmills'' of 500 employees (see *https://www.sba.gov/sites/default/files/2019-08/SBA%20Table%20of%20Size%20Standards_Effective%20Aug%2019%2C%202019_Rev.pdf*). Based on USDA's understanding of the lumber industry, using this criterion would be impractical as sawmills often use contractors rather than employees to operate and, therefore, many mills would fall under this criterion while being, in reality, a large business. Therefore, USDA used ''agricultural service firm'' as a more appropriate criterion for this analysis.

that duplicate, overlap, or conflict with this rule.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A proposed rule concerning this action was published in the **Federal Register** on May 11, 2020 (85 FR 27690). A 30-day comment period ending June 10, 2020, was provided to allow interested persons to submit comments.

Analysis of Comments

Two comments were received in response to the proposed rule. One commenter supported the change stating that it will give the board more flexibility in seeking the best qualified people to serve on the Board. The other comment was outside the scope of this action.

After consideration of all relevant material presented, including the information and recommendations submitted by the Board, the comment received, and other available information, it is hereby found that this rule, as hereinafter set forth, is consistent with and will effectuate the purposes of the 1996 Act.

List of Subjects in 7 CFR Part 1217

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Softwood Lumber promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1217, is amended as follows:

PART 1217—SOFTWOOD LUMBER RESEARCH, PROMOTION, CONSUMER EDUCATION AND INDUSTRY INFORMATION ORDER

■ 1. The authority citation for 7 CFR part 1217 continues to read as follows:

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

■ 2. In § 1217.40, paragraphs (b)(1), (b)(1)(i), (b)(1)(ii), and (b)(1)(iii), are revised to read as follows:

§ 1217.40 Establishment and membership.

* * * * *

(b) * * *

(1) *Domestic manufacturers.* Domestic manufacturers must reside in the United States. For the 2020 Board, 11 members shall represent domestic manufacturers and for the 2021 Board and each subsequent Board, ten members shall represent domestic manufacturers who reside in the following three regions:

(i) Five members shall represent manufacturers of softwood lumber in the U.S. South Region, which consists of the states of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. For the 2020 Board, of these five members, two must represent large and three must represent small domestic manufacturers. For the 2021 Board and each subsequent Board of these five members, two must represent large, two must represent small, and one may represent domestic manufacturers of any size;

(ii) Five members shall represent manufacturers of softwood lumber in the U.S. West Region for the 2020 Board, and for the 2021 Board and each subsequent Board, four members shall manufacture softwood lumber in the U.S. West Region, which consists of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. For the 2020 Board, of these five members, four must represent large and one must represent small domestic manufacturers. For the 2021 Board and each subsequent Board, of the four members, two must represent large, one must represent small, and one may represent domestic manufacturers of any size; and

(iii) One member shall represent a manufacturer of softwood lumber in the Northeast and Lake States Region, which consists of the states of Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Wisconsin and all other parts of the United States not listed in paragraph (b)(1)(i), (ii), or (iii) of this section. This member may represent domestic manufacturers of any size.

* * * * *

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2020–15715 Filed 7–24–20; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0753; Product Identifier 2018–SW–033–AD; Amendment 39–21169; AD 2020–15–06]

RIN 2120–AA64

Airworthiness Directives; PZL Swidnik S.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain PZL Swidnik S.A. (PZL) Model W–3A helicopters. This AD requires repetitive inspections of the main transmission (Main XSMN) case for a crack, and depending on the inspection outcome, removing the WR–3 Main XSMN from service before further flight. This AD was prompted by a report of cracks in a Main XSMN case. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD becomes effective August 11, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of August 11, 2020.

The FAA must receive comments on this AD by September 25, 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–2018–0753; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (now European Union Aviation Safety

Agency) (EASA) AD, any service information that is incorporated by reference, any comments received, and other information. The street address for Docket Operations is listed above.

For service information identified in this final rule, contact WSK ''PZL-Świdnik'' S.A., Al. Lotników Polskich 1, 21–045 Świdnik, Poland, telephone +48 664 424 798, or at *www.pzl.swidnik.pl.* 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. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0753.

FOR FURTHER INFORMATION CONTACT: Rao Edupuganti, Aviation Safety Engineer, Regulations and Policy Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *rao.edupuganti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, the FAA invites you to participate in this rulemaking by submitting written comments, data, or views. The FAA also invites comments relating to the economic, environmental, energy, or federalism impacts that resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, 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 them only one time. The FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking during the comment period. The FAA will consider all the comments received and may conduct additional rulemaking based on those comments.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2018–0092–E, dated April 20, 2018, to correct an unsafe condition for Wytwórnia Sprzętu Komunikacyjnego ''PZL-Świdnik'' Spółka Akcyjna (WSK ''PZL-ŚWIDNIK'' S.A.) Model PZL W–3A and PZL W–3AS helicopters with a serial number up to 3X.10.12 inclusive. EASA advises of an occurrence reported of finding cracks on the Main XMSN case housing. EASA further advises investigation results indicate the cracking mode has features of fatigue deterioration, but the root cause has not been determined. Accordingly, the EASA AD requires repetitive inspections of the Main XMSN case and, based on the inspection results, replacing certain parts. EASA also requires reporting the inspection results to PZL-Świdnik S.A. EASA considers its AD an interim action and further AD action may follow. EASA states this condition, if not detected and corrected, could lead to structural failure and loss of load carrying capabilities of the Main XSMN, possibly resulting in loss of helicopter control.

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 of the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all information provided by EASA and determining the unsafe condition exists and is likely to exist or develop on other helicopters of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed WYTWÓRNIA SPRZĘTU KOMUNIKACYJNEGO ''PZL-Świdnik'' Spólka Akcyjna Mandatory Bulletin No. BO–37–18–294, dated April 12, 2018, which specifies using a light source and mirror to inspect the Main XSMN case for indications of possible cracks, such as paint coat chipping, surface scratches, and oil leaks. This service information also specifies reporting certain information to PZL-Świdnik S.A., performing more in-depth inspections by performing a ground run test and checking for chalk mark discoloration, and if a crack exists, replacing the Main XSMN case before further flight.

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.

AD Requirements

The AD requires within 5 hours time-in-service (TIS), and thereafter at intervals not to exceed 25 hours TIS, for all PZL Model PZL W–3A helicopters serial number up to and including 3X.10.12 with Main XMSN case part number (P/N) 64.21.0105 or P/N 64.22.0161 installed on WR–3 Main XMSN P/N 64.21.3000 or P/N 64.21.4000, visually inspecting the Main XMSN case for a crack, a surface scratch, any paint coat chipping, and any oil leak and removing the Main XMSN from service before further flight if any of those conditions exist.

Differences Between This AD and the EASA AD

The EASA AD applies to Model PZL W–3AS helicopters, whereas this AD does not because that model is not FAA type-certificated. The EASA AD requires reporting certain information to PZL-Świdnik S.A., whereas this AD does not.

Interim Action

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

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (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

There are no costs of compliance associated with this AD because there are no helicopters with this type certificate on the U.S. Registry.

FAA's Justification and Determination of the Effective Date

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

There are no helicopters with this type certificate on the U.S. Registry. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are unnecessary pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the reasons stated above, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

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, 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):

2020–15–06 PZL Swidnik S.A.: Amendment 39–21169; Docket No. FAA–2018–0753; Product Identifier 2018–SW–033–AD.

(a) Applicability

This AD applies to PZL Swidnik S.A. (PZL) Model W–3A helicopters, with a serial number up to 3X.10.12 inclusive, certificated in any category, with a main transmission (Main XMSN) case, part number (P/N) 64.21.0105 or P/N 64.22.0161, installed on a WR–3 Main XMSN P/N 64.21.3000 or P/N 64.21.4000.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in the Main XMSN case. This condition could result in the structural failure and loss of load carrying capabilities of the Main XMSN and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective August 11, 2020.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Within 5 hours time-in-service (TIS), using a light source and mirror, and paying particular attention to the area above the Main XSMN mounting flange as shown in Attachment 1, Sketch 2 LH side and Sketch 2 RH side of Wytwórnia Sprzętu Komunikacyjnego ''PZL-Świdnik'' Spółka Akcyjna Mandatory Bulletin No. BO–37–18–294, dated April 12, 2018 (BO–37–18–294), visually inspect the Main XMSN case for a crack and indications of a crack. For purposes of this inspection, indications of a crack may be indicated by paint coat chipping or cracking, a surface scratch, or an oil leak.

(i) If there is a crack, before further flight, remove from service the WR–3 Main XMSN.

(ii) If there is any indication of a crack, before further flight, clean the Main XMSN case with a cotton cloth and washing or degreasing agent (extraction naphtha or equivalent), and using a 5X or greater power magnifying glass, visually inspect the area for a crack.

(A) If there is a crack, before further flight, remove from service the WR–3 Main XMSN.

(B) If there is no a crack, before further flight, apply white chalk on the area as described in paragraph (e)(1) of this AD and perform a powerplant ground run for 15 minutes with engines running at ground idle rating. After shutting down, either inspect the white chalk area for discoloration of the chalk or dye penetrant inspect the area for a crack. If the chalk is discolored or there is a crack, before further flight, remove from service the WR–3 Main XMSN.

Note 1 to paragraph (e)(1)(ii)(B) of this AD: Wytwórnia Sprzętu Komunikacyjnego ''PZL-Świdnik'' Spółka Akcyjna service information refers to a dye penetrant inspection as a color penetrant inspection.

(2) Thereafter following paragraph (e)(1) of this AD, at intervals not to exceed 25 hours TIS, do the actions required by paragraph (e)(1) of this AD.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Rao Edupuganti, Aviation Safety Engineer, Regulations and Policy 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.

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD No. 2018–0092–E, dated April 20, 2018. You may view the EASA AD on the internet at *https://www.regulations.gov* by searching for and locating it in Docket No. FAA–2018–0753.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6320, Main Rotor Gearbox.

(i) Material Incorporated by Reference

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

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

(i) WYTWÓRNIA SPRZĘTU KOMUNIKACYJNEGO ''PZL-Świdnik'' Spólka Akcyjna Mandatory Bulletin No. BO–37–18–294, dated April 12, 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact PZL-Świdnik S.A., A1. Lotników Polskich 1, 21–045 Świdnik, Poland; telephone +48 81 468 09 01, 751 20 71; fax +48 81 468 09 19, 751 21 73; or at *www.pzl.swidnik.pl.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110.

(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 July 10, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–16120 Filed 7–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0967; Project Identifier 2017–NE–35–AD; Amendment 39–21167; AD 2020–15–04]

RIN 2120–AA64

Airworthiness Directives; GE Aviation Czech s.r.o. Turboprop Engines (Type Certificate Previously Held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all GE Aviation Czech s.r.o. M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, M601F, H80, H80–100, H80–200, H75–100, H75–200, H85–100, and H85–200 model turboprop engines. This AD was prompted by a review by the manufacturer that identified the possibility of a power turbine (PT) rotor overspeed and the uncontained release of PT blades. This AD requires installing a modified engine outlet system. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 31, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 31, 2020.

ADDRESSES: For service information identified in this final rule, contact GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9—Letňany, Czech Republic; phone: +420 222 538 111; fax: +420 222 538 222. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA, 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0967.

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–2017–0967; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7146; fax: 781–238–7199; email: *barbara.caufield@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to all GE Aviation Czech s.r.o. M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, M601F, H80, H80–100, H80–200, H75–100, H75–200, H85–100, and H85–200 model turboprop engines. The SNPRM published in the **Federal Register** on February 4, 2020 (85 FR 6110) (''the SNPRM''). The FAA preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on January 24, 2018 (83 FR 3287) (''the NPRM''). The NPRM proposed to require installing a modified engine outlet system. The NPRM was prompted by a review by the manufacturer that identified the possibility of a PT rotor overspeed and the uncontained release of PT blades. The FAA is issuing this AD to address the unsafe condition on these products.

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2017–0151, dated August 18, 2017 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> A recent design review identified the possibility of failure of the power turbine (PT) or quill shaft splines.
>
> This condition, if not corrected, could lead to a PT rotor overspeed, with consequent release of PT blade(s), possibly resulting in high energy debris and damage to, and/or reduced control of, the aeroplane.
>
> To address this potential unsafe condition, GE Aviation Czech (GEAC) designed a modification (mod) of the engine outlet system and issued Alert Service Bulletins (ASB) ASB–M601E–72–00–00–0070, ASB–M601D–72–00–00–0053, ASB–M601F–72–00–00–0036, ASB–M601T–72–00–00–0029, ASB–M601Z–72–00–00–0039, ASB–H75–72–00–00–0011, ASB–H80–72–00–00–0025 and ASB–H85–72–00–00–0007 (single document, hereafter referred to as ''the ASB'' in this AD), providing instructions for modification of engines in service.
>
> For the reason described above, this AD requires modification of the affected engines, and prohibits installation of pre-mod parts.

You may obtain further information by examining the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0967.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received no comments on the SNPRM, on the determination of the cost to the public, or the impact of the proposed rule on small entities.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE Aviation ASB ASB–M601E–72–00–00–0070[03], ASB–M601D–72–00–00–0053[03], ASB–M601F–72–00–00–0036[03], ASB–M601T–72–00–00–0029[03], ASB–M601Z–72–00–00–0039[03], ASB–H75–72–00–00–0011[03], ASB–H80–72–00–00–0025[03], and ASB–H85–72–00–00–0007[03] (single document; formatted as service bulletin identifier[revision number]), dated July 24, 2018. The ASB describes procedures for removal and replacement of the engine outlet system hardware. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 42 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace exhaust system parts	64 work-hours × $85 per hour = $5,440	$63,000	$68,440	$2,874,480

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 Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354, codified as amended at 5 U.S.C. 601–612) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' Public Law 96–354, 2(b), Sept. 19, 1980. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions. Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

The FAA published an Initial Regulatory Flexibility Analysis (IRFA) in the proposed rule to aid the public in commenting on the potential impacts to small entities. The FAA considered the public comments in developing the final rule and this Final Regulatory Flexibility Analysis (FRFA). A FRFA must contain the following:

(1) A statement of the need for, and objectives of, the rule;

(2) A statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

(3) The response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments;

(4) A description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

(5) A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

(6) A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

1. Need for and Objectives of the Rule

This AD was prompted by a review by the manufacturer that identified the possibility of a PT overspeed and the uncontained release of PT blades. The FAA is issuing this AD to prevent uncontained release of the PT blades. This AD requires installing a modified engine outlet system. The unsafe condition, if not addressed, could result in failure of the PT blades, uncontained release of the blades, damage to the engine, and damage to the airplane.

2. Significant Issues Raised in Public Comments

The FAA did not receive any public comments on the SNPRM.

3. Response to SBA Comments

The Chief Counsel for Advocacy of the Small Business Administration (SBA) did not file any comments in response to the proposed rule. Thus, the FAA did not make any changes to the proposed rule in the final rule.

4. Small Entities to Which the Rule Will Apply

This AD applies to all GE Aviation Czech s.r.o. M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, M601F, H75–100, H75–200, H80, H80–100, H80–200, H85–100, and H85–200 turboprop engines. These engines are typically installed on airplanes that are owned and operated by aerial application businesses, which is a small segment of the aviation industry. These airplanes, also known as ''crop-dusters,'' spread fertilizer, insecticides, fungicides, and weed killers.[1]

The FAA searched the 2018 Aircraft Registration database that contains the records of all U.S. Civil Aircraft maintained by the FAA's Aircraft Registration Branch and identified 42 airplanes with GE H80 series engines or equivalent turboprop engines installed. The Aircraft Registration database shows that 38 companies own these 42 airplanes, 4 companies own 2 airplanes, while the remaining 34 companies own 1 airplane each. Based on these registration records, the FAA assumes that approximately each entity or business owned one airplane.

By using the Small Business Administration (SBA)'s size standards and the North American Industry Classification System (NAICS) code classifications, the FAA is able to determine whether a business is small or not. These entities operate under NAICS code 115112, Soil Preparation, Planting, and Cultivating. The size standards for this NAICS code as provided by SBA's Size Standards

[1] ''Flying Low Is Flying High As Demand for Crop-Dusters Soars'', by Jonathan Welsh, updated Aug. 14, 2009: *https://www.wsj.com/articles/SB125020758399330769.* Accessed on July 26, 2019.

Table [2] is $7.5 million in annual revenues. Therefore, entities generating less than $7.5 million in annual revenues would be treated as small businesses for the purposes of this analysis.

The FAA assumes that all 38 operators above that are affected by this AD are small businesses because $700,000 annual revenue for a first-class, used turbine agricultural aviation plane [3] is a reasonable industry estimate. On average, entities operating in the aerial application industry generate approximately $700,000 each year ($700,000 × 1 crop-duster airplane), which is below $7.5 million revenue size standards for NAICS code 115112. Therefore, the FAA assumes all 38 registered company owners or operators to be small entities.

5. Projected Reporting, Recordkeeping, and Other Compliance Requirements

There are no record-keeping costs or other compliance costs associated with this final rule.

6. Significant Alternatives Considered

There is no direct safety alternative to the modification of the engine outlet system. The modification addresses a safety issue aimed at preventing an uncontained release of the PT blades. Compliance cost of this AD comes from the removal and replacement of the exhaust system parts. Estimated compliance cost per engine is identified below.

Labor cost = 64 repair hours per engine * $85 Mean Hourly Wage = $5,440.

Cost of Parts = $63,000 per engine (Source: GE Aviation Czech).

$5,440 labor per engine + $63,000 parts per engine = $68,440 compliance cost per engine.

To estimate the revenue impacts of the AD on these 38 small operators, the FAA used the total estimated one-time costs of compliance per each engine ($68,440) and divided it by the estimated annual revenue of each entity ($700,000). The FAA determined all 38 small businesses that would be affected by this AD would experience impacts of approximately 10 percent of their annual revenue during the implementation of this AD ($68,440 ÷ $700,000).

Therefore, the FAA determined that this AD rule will have a significant economic impact on a substantial number of small entities.

Regulatory Findings

The FAA determined that this AD would not have federalism implications under Executive Order 13132. This 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 above, I certify 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):

2020–15–04 GE Aviation Czech s.r.o. (Type Certificate previously held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.): Amendment 39–21167; Docket No. FAA–2017–0967; Project Identifier 2017–NE–35–AD.

(a) Effective Date

This AD is effective August 31, 2020.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to all GE Aviation Czech s.r.o. M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, M601F, H75–100, H75–200, H80, H80–100, H80–200, H85–100, and H85–200 turboprop engines.

(2) These engines are known to be installed on, but not limited to, Thrush Aircraft, Inc. (formerly Quality, Ayres, Rockwell) S–2R, PZL ''Warszawa-Okęcie'' PZL–106 (Kruk), Air Tractor AT–300, AT–400 and AT–500 series, Allied Ag Cat Productions, Inc. (formerly Schweizer, Grumman American) G–164 series, RUAG (formerly Dornier) Do 28 and Aircraft Industries (formerly LET) L–410 airplanes.

(d) Subject

Joint Aircraft System Component (JASC) Code 7810, Engine Collector/Tailpipe/Nozzle.

(e) Unsafe Condition

This AD was prompted by a review by the manufacturer that identified the possibility of a power turbine (PT) overspeed and the uncontained release of PT blades. The FAA is issuing this AD to prevent uncontained release of the PT blades. The unsafe condition, if not addressed, could result in failure of the PT blades, uncontained release of the blades, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) After the effective date of this AD, replace the parts listed in Tables 2 through 5 to paragraph (g) of this AD with the parts identified in Planning Information, Paragraph 1.5, Sections I through IV, respectively in GE Aviation Alert Service Bulletin (ASB) ASB–M601E–72–00–00–0070[03], ASB–M601D–72–00–00–0053[03], ASB–M601F–72–00–00–0036[03], ASB–M601T–72–00–00–0029[03], ASB–M601Z–72–00–00–0039[03], ASB–H75–72–00–00–0011[03], ASB–H80–72–00–00–0025[03], and ASB–H85–72–00–00–0007[03] (single document; formatted as service bulletin identifier[revision number]), dated July 24, 2018, using the criteria below, whichever occurs first:

(i) During the next engine shop visit,

(ii) within the compliance time identified in the applicable Airworthiness Limitations Section of the existing maintenance manual for the affected engine model, or

(iii) within the compliance time, in years after the effective date of this AD, shown in Table 1 of this AD.

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[2] *https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf* Accessed on July 26, 2019.

[3] ''How much does it cost?'' by Bill Lavender, April 3, 2017. *https://agairupdate.com/how-much-does-it-cost/* Accessed on July 26, 2019.

Table 1 to Paragraph (g) – Compliance Times

Date of Engine Manufacture	Date of Release to Service after last Shop Visit	Compliance Time
December 31, 2008 or before	Never subjected to engine shop visit	5 years
January 1, 2009 or later		10 years
any	February 9, 2014 or before	5 years
any	February 10, 2014 or later	10 years

Table 2 to Paragraph (g) – Exhaust Systems M601-4.2, M601-4.5, M601-4.51, M601-4.52, M601-4.61, and M601-4.62

Engine models	Part Name	Part Number (P/N)
M601E-11, M601E-11A, M601E-11AS, M601E-11S, M601F, H75-100, H75-200, H80, H80-100, H80-200, H85-100, and H85-200	Containment Ring	M601-426.5
	Insulation Cover	M601-422.3, M601-422.2
	Supporting Cone	M601-457.7, M601-457.3
	Support	M601-4512.5

Table 3 to Paragraph (g) – Exhaust System M601-4.1, M601-4.6, and M601-4.7

Engine models	Part Name	P/N
M601D-11, M601E-11, M601E-11A, M601E-11AS, M601E-11S	Containment Ring	M601-426.5
	Insulation Cover	M601-422.3, M601-422.2
	Support	M601-4512.5
	Supporting Cone	M601-457.7, M601-457.3
	Outlet Duct	M601-416.6

Table 4 to Paragraph (g) – Countershaft Case Complete (Reduction Gearbox Subassembly) M601-62.2, M601-62.7, M601-60.3

Engine models	Part Name	P/N
All	Bolt	M601-6170.9
	Ring	M601-6014.9

Table 5 to Paragraph (g)– Torquemeter (Reduction Gearbox Subassembly) M601-673.6, M601-667.7, M601-605.3

Engine models	Part Name	P/N
All	Torquemeter Holder	M601-643.9

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(2) [Reserved]

(h) Installation Prohibition

(1) Do not install any part with a P/N listed in Tables 2 through 5 to paragraph (g) of this AD on any engine after that engine has been modified as required by paragraph (g)(1) of this AD.

(2) After the effective date of this AD, do not install a part with a P/N listed in Tables 2 through 5 of this AD on any engine manufactured on or after September 1, 2017.

(i) Definition

For the purpose of this AD, an engine shop visit is when the engine is overhauled or rebuilt, or the PT is disassembled.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ECO Branch, send it to the attention of the person identified in paragraph (k)(1) of this AD. You may email your request to: *ANE-AD-AMOC@faa.gov.*

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

(k) Related Information

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

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2017–0151R1, dated December 5, 2018, for more information. You may examine the EASA AD in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating it in Docket No. FAA–2017–0967.

(l) Material Incorporated by Reference

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

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

(i) GE Aviation Alert Service Bulletin ASB–M601E–72–00–00–0070[03], ASB–M601D–72–00–00–0053[03], ASB–M601F–72–00–00–0036[03], ASB–M601T–72–00–00–0029[03], ASB–M601Z–72–00–00–0039[03], ASB–H75–72–00–00–0011[03], ASB–H80–72–00–00–0025[03], and ASB–H85–72–00–00–0007[03] (single document; formatted as service bulletin identifier[revision number]), dated July 24, 2018.

(ii) [Reserved]

(3) For GE Aviation Czech service information identified in this AD, contact GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9—Letňany, Czech Republic; phone: +420 222 538 111; fax: +420 222 538 222.

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

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

Issued on July 10, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–16122 Filed 7–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1123; Product Identifier 2017–SW–013–AD; Amendment 39–21176; AD 2020–15–13]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2017–02–07 for Airbus Helicopters Deutschland GmbH (Airbus Helicopters) Model MBB–BK 117 C–2 and Model MBB–BK 117 D–2 helicopters. AD 2017–02–07 required a repetitive inspection and a one-time torque of each hydraulic module plate assembly attachment point (attachment point). This new AD retains the initial inspection and torque requirements of AD 2017–02–07 and requires replacing the attachment point hardware. This AD was prompted by a terminating action has been developed to address the unsafe condition. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD is effective August 31, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 31, 2020.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1123.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* in Docket No. FAA–2017–1123; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, any service information that is incorporated by reference, any comments received, and other information. The street address for Docket Operations is 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: Matt Fuller, AD Program Manager, Continued Operational Safety Branch, Airworthiness Products Section, General Aviation and Rotorcraft Unit, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to supersede AD 2017–02–07, Amendment 39–18786 (82 FR 10267, February 10, 2017) (''AD 2017–02–07''). AD 2017–02–07 applied to Airbus Helicopters Model MBB–BK 117 C–2 helicopters, serial numbers up to and including 9750, and Model MBB–BK 117 D–2 helicopters, serial numbers up to and including 20110, with a hydraulic module plate assembly part number B291M0003103 with a single locking attachment point installed. The SNPRM published in the **Federal Register** on February 27, 2020 (85 FR 11315). The FAA preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on December 5, 2017 (82 FR 57390). The NPRM proposed to retain the initial inspection and torque requirements of AD 2017–

02–07 and require replacing each single locking attachment point mechanism with a double locking attachment point mechanism. The SNPRM proposed to add a requirement to reposition the aft grounding straps and inspect the clamping effect of the aft attachment points when the double locking attachment hardware is installed, and for helicopters that have previously installed the double locking attachment hardware, the SNPRM proposed to add an alternative clamp effect inspection requirement. The SNPRM also corrected the torque application requirement proposed in the NPRM to just each forward (not aft) attachment point.

The NPRM was prompted by EASA AD No. 2017–0047, dated March 13, 2017, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition on Airbus Helicopters Deutschland GmbH (formerly Eurocopter Deutschland GmbH) Model MBB–BK117 C–2, MBB–BK117 C–2e, MBB–BK117 D–2 and MBB–BK117 D–2m helicopters. EASA advises that the hydraulic plate assembly on certain MBB–BK117 models has four attachment points on the fuselage secured by a single locking mechanism. According to EASA, a design reassessment revealed stiffness of the hydraulic plate may be insufficient to withstand the in-service loads in the event one of the four single locking attachment points fails. The EASA AD requires a repetitive inspection and one-time torque tightening of the attachment points until replacement of the single locking attachment hardware with double locking attachment hardware.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comment received. One commenter commented in support of the SNPRM.

FAA's Determination

The FAA has reviewed the relevant information and determined that an unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between this AD and the EASA AD

The EASA AD specifies performing the visual inspection of each attachment point at intervals not exceeding 400 flight hours. This AD does not require a repetitive inspection. This AD requires the replacement of each single locking attachment point mechanism with a double locking attachment point mechanism within 300 hours TIS instead, which makes subsequent inspections unnecessary. Since EASA has not revised or superseded its AD to incorporate Revision 3 of the service information, the EASA AD does not require inspecting the clamping effect of the aft joints, torque tightening the bolts, and corrective action if necessary for helicopters with a hydraulic module plate assembly with double locking attachment hardware installed in accordance with Airbus Helicopters Alert Service Bulletin (ASB) No. ASB MBB–BK117 C–2–29A–003 or ASB No. ASB MBB–BK117 D–2–29A–001, both Revision 2 and dated February 1, 2017.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Airbus Helicopters ASB No. ASB MBB–BK117 C–2–29A–003 for Model MBB–BK 117 C–2 helicopters and ASB No. ASB MBB–BK117 D–2–29A–001 for Model MBB–BK 117 D–2 helicopters, both Revision 3 and dated December 19, 2017. Until the attachment points are modified with double locking attachment mechanisms, this service information specifies a repetitive visual inspection for condition and correct installation of the attachment points and replacing the affected parts if there is a crack. This service information also specifies a tightening torque check of the forward attachment points after the initial inspection and replacing the affected parts if torque cannot be applied. This service information specifies procedures to replace the single locking attachment hardware with double locking attachment hardware.

For certain helicopters with a hydraulic module plate assembly with the double locking attachment hardware installed, this revision of the service information contains procedures to inspect the clamping effect of the aft attachment points and torque tightening the screw joints (bolts). If a bolt can be turned while applying this torque, the service information specifies instructions to replace the split pin, washer, and self-locking castellated nut, check the bolt for wear and replace it if necessary, change the position of the aft grounding strap, check the electrical bonding, and apply PU-Lacquer to the grounding connection.

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 also reviewed Airbus Helicopters ASB No. ASB MBB–BK117 C–2–29A–003 for Model MBB–BK 117 C–2 helicopters and ASB No. ASB MBB–BK117 D–2–29A–001 for Model MBB–BK 117 D–2 helicopters, both Revision 1 and dated October 14, 2016, and both Revision 2 and dated February 1, 2017. Revisions 1 and 2 of this service information contain the same visual inspection and torque tightening check procedures as Revision 3. Revision 2 of this service information adds the procedures to replace the single locking attachment hardware with double locking attachment hardware and contains the same forward locking attachment hardware replacement procedures as Revision 3.

Costs of Compliance

The FAA estimates that this AD affects 167 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. The FAA estimates the cost of labor at $85 per work-hour.

Visually inspecting the four attachment points takes about 0.75 work-hour for an estimated cost of $64 per helicopter and $10,688 for the U.S. fleet. Inspecting the torque of the attachment points takes about 0.25 work-hour for an estimated cost of $21 per helicopter and $3,507 for the U.S. fleet. Replacing any of the attachment point parts takes a minimal amount of time and parts cost about $48 per attachment point. Installing four double locking attachment point mechanisms takes a minimal amount of time and parts cost about $400 per helicopter and $66,800 for the U.S. fleet.

For certain double locking attachment hardware aft joints, inspecting the clamping effect and applying torque takes about 1 work-hour for an estimated cost of $85 per helicopter. If required, inspecting and replacing parts, repositioning the aft grounding strap, inspecting the electrical bonding, and applying lacquer to the grounding connection takes about 0.5 work-hour and parts cost about $15 for an estimated cost of $58 per helicopter.

According to Airbus Helicopters' service information, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. The FAA does not control warranty coverage by Airbus Helicopters. Accordingly, the FAA has included all costs in this cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue

rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

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

Regulatory Findings

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

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

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

2. Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2017–02–07, Amendment 39–18786 (82 FR 10267, February 10, 2017), and adding the following new AD:

2020–15–13 Airbus Helicopters Deutschland GmbH: Amendment 39–21176; Docket No. FAA–2017–1123; Product Identifier 2017–SW–013–AD.

(a) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH Model MBB–BK 117 C–2 helicopters, serial numbers up to and including 9750, and Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–2 helicopters, serial numbers up to and including 20110, certificated in any category, with a hydraulic module plate assembly part number B291M0003103 with a single locking attachment point installed or with a double locking attachment point installed before the effective date of this AD in accordance with Airbus Helicopters Alert Service Bulletin (ASB) No. ASB MBB–BK117 C–2–29A–003 (ASB MBB–BK117 C–2–29A–003 Rev 2) or ASB No. ASB MBB–BK117 D–2–29A–001 (ASB MBB–BK117 D–2–29A–001 Rev 2), both Revision 2 and dated February 1, 2017, as applicable to your model helicopter.

(b) Unsafe Condition

This AD defines the unsafe condition as failure of a hydraulic module plate assembly attachment point (attachment point). This condition could result in loss of the hydraulic module plate and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD replaces AD 2017–02–07, Amendment 39–18786 (82 FR 10267, February 10, 2017).

(d) Effective Date

This AD becomes effective August 31, 2020.

(e) 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.

(f) Required Actions

Comply with either paragraphs (f)(1) and (2) of this AD, or paragraph (f)(3) of this AD, as applicable to your helicopter.

(1) For helicopters with a hydraulic module plate assembly with a single locking attachment hardware installed, within 100 hours time-in-service (TIS):

(i) Visually inspect the split pins, castellated nuts, plugs, nuts, and hexagon bolts of each attachment point for a crack and for proper installation by following the Accomplishment Instructions, paragraphs 3.B.1.3.a. through 3.B.1.3.d., of Airbus Helicopters ASB No. ASB MBB–BK117 C–2–29A–003 (ASB MBB–BK117 C–2–29A–003 Rev 3) or Airbus Helicopters ASB No. ASB MBB–BK117 D–2–29A–001 (ASB MBB–BK117 D–2–29A–001 Rev 3), both Revision 3 and dated December 19, 2017, as applicable to your model helicopter. Replace any part that has a crack before further flight. If the split pins, castellated nuts, or hexagon bolts are not as depicted in Figures 1 and 2 of ASB MBB–BK117 C–2–29A–003 Rev 3 or ASB MBB–BK117 D–2–29A–001 Rev 3, before further flight, properly install them.

(ii) Apply a torque of 9 to 10 Nm to the left-hand (LH) and right-hand (RH) nuts of each forward attachment point. If a torque of 9 to 10 Nm cannot be applied, replace the affected nut before further flight.

(2) For helicopters with a hydraulic module plate assembly with a single locking attachment hardware installed, within 300 hours TIS:

(i) Replace each forward single locking attachment hardware with double locking attachment hardware by following the Accomplishment Instructions, paragraphs 3.B.3.3. through 3.B.3.6. on page 11 of ASB MBB–BK117 C–2–29A–003 Rev 3 or ASB MBB–BK117 D–2–29A–001 Rev 3, as applicable to your model helicopter, except you are not required to discard old parts.

(ii) Replace each aft single locking attachment hardware with double locking attachment hardware and reposition the LH and RH aft grounding straps by following the Accomplishment Instructions, paragraphs 3.B.3.1. through 3.B.3.7. on page 13 of ASB MBB–BK117 C–2–29A–003 Rev 3 or ASB MBB–BK117 D–2–29A–001 Rev 3, as applicable to your model helicopter, except you are not required to discard old parts.

(3) If you have replaced the attachment hardware with double locking attachment hardware before the effective date of this AD in accordance with ASB MBB–BK117 C–2–29A–003 Rev 2 or ASB MBB–BK117 D–2–29A–001 Rev 2, as applicable to your model helicopter: Within 300 hours TIS, inspect the clamping effect of the LH and RH aft screw joints (bolts) of the hydraulic module plate by following the Accomplishment Instructions, paragraph 3.B.5., of ASB MBB–BK117 C–2–29A–003 Rev 3 or ASB MBB–BK117 D–2–29A–001 Rev 3, as applicable to your model helicopter, except you are not required to discard old parts.

Note 1 to paragraph (f)(3) of this AD: Airbus Helicopters refers to bolts as ''screw joints.''

(g) Credit for Previous Actions

Actions accomplished before the effective date of this AD in accordance with the procedures specified in the following are considered acceptable for compliance with the corresponding actions in paragraph (f)(1) of this AD:

(1) AD 2017–02–07, Amendment 39–18786 (82 FR 10267, February 10, 2017).

(2) Airbus Helicopters ASB No. ASB MBB–BK117 C–2–29A–003, Revision 1, dated October 14, 2016.

(3) Airbus Helicopters ASB No. ASB MBB–BK117 C–2–29A–003, Revision 2, dated February 1, 2017.

(4) Airbus Helicopters ASB No. ASB MBB–BK117 D–2–29A–001, Revision 1, dated October 14, 2016.

(5) Airbus Helicopters ASB No. ASB MBB–BK117 D–2–29A–001, Revision 2, dated February 1, 2017.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, AD Program Manager, Continued Operational Safety Branch, Airworthiness Products Section, General Aviation and Rotorcraft Unit, 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.

(i) Additional Information

(1) Airbus Helicopters ASB No. ASB MBB–BK117 C–2–29A–003 and ASB No. ASB MBB–BK117 D–2–29A–001, both Revision 1 and dated October 14, 2016, and both Revision 2 and dated February 1, 2017, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* 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 Aviation Safety Agency (now European Union Aviation Safety Agency) AD No. 2017–0047, dated March 13, 2017. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2017–1123.

(j) Subject

Joint Aircraft Service Component (JASC) Code: 2900, Hydraulic Power System.

(k) Material Incorporated by Reference

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

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

(i) Airbus Helicopters Alert Service Bulletin (ASB) No. ASB MBB–BK117 C–2–29A–003, Revision 3, dated December 19, 2017.

(ii) Airbus Helicopters ASB No. ASB MBB–BK117 D–2–29A–001, Revision 3, dated December 19, 2017.

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

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110.

(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 July 15, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–16166 Filed 7–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–1021; Project Identifier MCAI–2019–00120–E; Amendment 39–21166; AD 2020–15–03]

RIN 2120–AA64

Airworthiness Directives; GE Aviation Czech s.r.o. Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2016–07–13 and AD 2018–03–22 which apply to certain GE Aviation Czech s.r.o. M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F model turboprop engines. AD 2016–07–13 required inspection of the engine power turbine (PT) disk and, if found damaged, its replacement with a part eligible for installation. AD 2018–03–22 required the removal of certain engine PT disks identified by part number (P/N) installed on the affected engines. This AD requires an inspection of the engine PT disk and, if found damaged, its replacement with a part eligible for installation. This AD also requires the removal of certain engine PT disks identified by P/N installed on the affected engines. This AD was prompted by the discovery of damage to certain engine PT disks and a review by the manufacturer that determined that certain engine PT rotors have less overspeed margin than originally declared during product certification. This AD was also prompted by the manufacturer identifying additional P/Ns and serial numbers (S/Ns) of engine PT disks affected by damage or non-conformity since publishing AD 2016–07–13 and AD 2018–03–22. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 31, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 31, 2020.

ADDRESSES: For service information identified in this final rule, contact GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9—Letňany, Czech Republic; phone: +420 222 538 111; fax +420 222 538 222; email: *tp.ops@ge.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1021.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1021; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mehdi Lamnyi, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7743; fax: 781–238–7199; email: *Mehdi.Lamnyi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2016–07–13, Amendment 39–18458 (81 FR 20222, April 7, 2016) (''AD 2016–07–13''), and AD 2018–03–22, Amendment 39–19195 (83 FR 6455, February 14, 2018) (''AD 2018–03–22''). AD 2016–07–13 and AD 2018–03–22 applied to certain GE Aviation Czech s.r.o. M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F model turboprop engines. The NPRM published in the **Federal Register** on February 21, 2020 (85 FR 10099). The NPRM was prompted by the discovery of damage to certain engine PT disks and a review by the manufacturer that determined that certain engine PT rotors have less overspeed margin than originally declared during product certification. The NPRM was also prompted by the manufacturer

identifying additional P/Ns and S/Ns of engine PT disks affected by damage or non-conformity since publishing AD 2016–07–13 and AD 2018–03–22. The NPRM proposed to require an inspection of the engine PT disk and, if found damaged, its replacement with a part eligible for installation. The NPRM also proposed to require the removal of certain engine PT disks identified by P/N installed on the affected engines. The FAA is issuing this AD to address the unsafe condition on these products.

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2019–0143, dated June 13, 2019 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> During engine shop visits or overhauls, certain PT discs may have been damaged in the area of the balance weights. Additional PT discs with non-conforming geometry of the slot radius may also have been released to service as a result of incorrect machining of the PT disc slot.
>
> This condition, if not detected and corrected, could lead to PT disc failure, with subsequent release of high-energy debris, possibly resulting in damage to, and/or reduced control of, the aeroplane.
>
> After [EASA] ADs [2016–0025–E and 2017–0100] were issued, GEAC identified additional P/N and s/n of PT discs affected by damage or non-conformity. For those, as well as for the PT discs affected by the reduction of the declared theoretical PT rotor overspeed limit, an update of the risk assessment was performed, and GEAC issued the original issue of the ASB, later revised, providing applicable instructions.
>
> Consequently, EASA issued AD 2019–0061, retaining the requirements of EASA AD 2016–0025–E and EASA AD 2017–0100, which were superseded, and requiring a one-time inspection and, depending on findings, replacement of certain PT discs identified by P/N and s/n. That [EASA] AD also required replacement of certain PT discs identified by P/N, and prohibited (re)installation of affected parts.
>
> Since that [EASA] AD was issued, it has been determined that the compliance time for replacement of affected part on Group 2 engines has to be amended, and GEAC published the ASB (now at Revision 02).
>
> For the reason stated above, this [EASA] AD retains the requirements of EASA AD 2019–0061, which is superseded, introducing amended compliance times for Group 2 engines.

You may obtain further information by examining the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1021.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE Aviation Alert Service Bulletin (ASB) ASB–M601E–72–50–00–0069[02], ASB–M601D–72–50–00–0052[02], ASB–M601T–72–50–00–0028[02], ASB–M601F–72–50–00–0035[02], and ASB–M601Z–72–50–00–0038[02] (single document; formatted as service bulletin identifier[revision number]), dated June 11, 2019. The ASB provides procedures for replacing the engine PT disk. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 24 GE Aviation Czech s.r.o. M601 turboprop engines installed on airplanes of U.S. registry. The FAA estimates that 12 affected turboprop engines are ''Group 1'' engines and 12 are ''Group 2'' engines.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect the engine PT disk (Group 1 engines)	52 work-hours × $85 per hour = $4,420	$0	$4,420	$53,040
Replace the engine PT disk (Group 2 and 3 engines).	56 work-hours × $85 per hour = $4,760	6,989	11,749	140,988

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace the engine PT disk (Group 1 engines)	8 work-hours x $85 per hour = $680	$6,989	$7,669

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

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2016–07–13, Amendment 39–18458 (81 FR 20222, April 7, 2016), and AD 2018–03–22, Amendment 39–19195 (83 FR 6455, February 14, 2018); and

■ b. Adding the following new AD:

2020–15–03 GE Aviation Czech s.r.o.: Amendment 39–21166; Docket No. FAA–2019–1021; Project Identifier MCAI–2019–00120–E.

(a) Effective Date

This AD is effective August 31, 2020.

(b) Affected ADs

This AD replaces AD 2016–07–13, Amendment 39–18458 (81 FR 20222, April 7, 2016) (''2016–07–13''), and AD 2018–03–22, Amendment 39–19195 (83 FR 6455, February 14, 2018) (''2018–03–22'').

(c) Applicability

This AD applies to all GE Aviation Czech s.r.o. M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F model turboprop engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by the discovery of damage to certain engine power turbine (PT) disks and a review by the manufacturer that determined that certain engine PT rotors have less overspeed margin than originally declared during product certification. This AD was also prompted by the manufacturer identifying additional part numbers (P/Ns) and serial numbers (S/Ns) of engine PT disks affected by damage or non-conformity since publishing AD 2016–07–13 and AD 2018–03–22. The FAA is issuing this AD to prevent failure of the engine PT disk and rotor. The unsafe condition, if not addressed, could result in uncontained release of the engine PT disk and rotor, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) For Group 1 engines: Before the affected engine PT disk accumulates the number of cycles since new as specified in Attachment B of GE Aviation Alert Service Bulletin (ASB) ASB–M601E–72–50–00–0069[02], ASB–M601D–72–50–00–0052[02], ASB–M601T–72–50–00–0028[02], ASB–M601F–72–50–00–0035[02], and ASB–M601Z–72–50–00–0038[02] (single document; formatted as service bulletin identifier[revision number]), dated June 11, 2019 (''the ASB''), or at the next engine shop visit, whichever occurs first after the effective date of this AD, perform a visual inspection, dimensional inspection, and fluorescent penetrant inspection on the affected engine PT disk using Attachment G, Inspection Instruction, of the ASB.

(2) If, during the inspections required by paragraph (g)(1) of this AD, any damage is detected, or a non-conforming slot radius is found that exceeds the acceptability criteria as defined in Table 1—PT Disc P/N M601–3220.5 inspection limits of the ASB, before further flight, remove the affected engine PT disk from service and replace it with a part eligible for installation using Attachment F, Replacement Instruction, of the ASB.

(3) For Group 2 engines: Within the compliance time identified in Table 1 to paragraph (g)(3) of this AD, modify the engine by removing the affected engine PT disk from service and replacing it with a part eligible for installation using Attachment F, Replacement Instruction, of the ASB.

Table 1 to Paragraph (g)(3) – Compliance Time Requirements for Group 2 Engines

Compliance Time (A, B, C, D, or E, whichever occurs first after the effective date of this AD)	
A	Before the engine exceeds the Time Between Overhaul (TBO) cycle limit specified in the Applicable Engine Maintenance Manual (EMM).
B	Before the engine PT disk accumulates the number of cycles since overhaul as specified in Attachment D of the ASB.
C	Before the engine PT disk accumulates the number of cycles since new as specified in Attachment D of the ASB.
D	Within 180 days.
E	During the next shop visit (engine overhaul or rebuild), or within five years after March 21, 2018 (the effective date of AD 2018-03-22), whichever occurs first.

(4) For Group 3 engines: Within five years after March 21, 2018 (the effective date of AD 2018–03–22), or during the next engine shop visit after the effective date of this AD, whichever occurs first, remove the affected engine PT disk from service and replace it with a part eligible for installation using Attachment F, Replacement Instruction, of the ASB.

(h) Definitions

(1) For the purpose of this AD, a Group 1 engine is a GE Aviation Czech s.r.o. turboprop engine that has an engine PT disk having P/N M601–3220.5 and S/N 407560–158, 407560–164, 406380–196 or 407560–190, installed.

(2) For the purpose of this AD, a Group 2 engine is a GE Aviation Czech s.r.o. turboprop engine that has an engine PT disk having P/N M601–3220.6 or P/N M601–3220.7, and a S/N listed in Attachment C of the ASB, installed.

(3) For the purpose of this AD, a Group 3 engine is a GE Aviation Czech s.r.o. turboprop engine that has an engine PT disk having P/N M601–3220.6 or P/N M601–3220.7, and any S/N not listed in Attachment C of the ASB, installed.

(4) For the purpose of this AD, an ''affected engine PT disk'' is an engine PT disk having P/N M601–3220.5 and S/N 407560–158, 407560–164, 406380–196 or 407560–190, except those that passed an inspection (no defects detected) using Attachment G, Inspection Instruction, of the ASB. An ''affected engine PT disk'' is also an engine PT disk having P/N M601–3220.6 or M601–3220.7.

(i) Credit for Previous Actions

You may take credit for the inspections and replacement of the affected engine PT disk that are required by paragraph (g) of this AD if you performed the inspections and replacement before the effective date of this AD using the ASB, Revision 01 or the original issue.

(j) No Reporting Requirement

The reporting requirements in the Attachment G, Inspection Instruction, of the ASB, are not required by this AD.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ECO Branch, send it to the attention of the person identified in paragraph (l)(1) of this AD. You may email your request to: *ANE-AD-AMOC@faa.gov.*

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

(l) Related Information

(1) For more information about this AD, contact Mehdi Lamnyi, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7743; fax: 781–238–7199; email: *Mehdi.Lamnyi@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2019–0143, dated June 13, 2019, for more information. You may examine the EASA AD in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1021.

(m) Material Incorporated by Reference

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

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

(i) GE Aviation Alert Service Bulletin (ASB) ASB–M601E–72–50–00–0069[02], ASB–M601D–72–50–00–0052[02], ASB–M601T–72–50–00–0028[02], ASB–M601F–72–50–00–0035[02], and ASB–M601Z–72–50–00–0038[02] (single document; formatted as service bulletin identifier[revision number]), dated June 11, 2019.

(ii) [Reserved]

(3) For GE Aviation Czech service information identified in this AD, contact GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9—Letňany, Czech Republic; phone: +420 222 538 111; fax +420 222 538 222; email: *tp.ops@ge.com.*

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

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

Issued on July 9, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–16121 Filed 7–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0675; Product Identifier 2018–SW–027–AD; Amendment 39–21174; AD 2020–15–11]

RIN 2120–AA64

Airworthiness Directives; PZL Swidnik S.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for PZL Swidnik S.A. Model PZL W–3A helicopters. This AD requires repetitively inspecting the main rotor (M/R) vibration absorber star and depending on the inspection outcome, performing more in-depth inspections and repairing, replacing, or removing the vibration absorber star from service. This AD was prompted by a report of corrosion detected on an M/R vibration absorber star. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD becomes effective August 11, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as August 11, 2020.

The FAA must receive comments on this AD by September 25, 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–2020–0675; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, any service information that is incorporated by reference, any comments received, and other information. The street address for Docket Operations is listed above.

For service information identified in this final rule, contact WSK ''PZL-Świdnik'' S.A., Al. Lotników Polskich 1, 21–045 Świdnik, Poland, telephone +48 664 424 798, or at *www.pzl.swidnik.pl.* 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. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0675.

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

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, 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 AD, 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 them 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 rulemaking during the comment period. The FAA will consider all the comments received and may conduct additional rulemaking based on those comments.

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. 2018–0070, dated March 27, 2018, to correct an unsafe condition for Wytwórnia Sprzętu Komunikacyjnego ''PZL-Świdnik'' Spółka Akcyjna (WSK, ''PZL-ŚWIDNIK'' S.A.) Model PZL W–3A and PZL W–3AS helicopters with M/R vibration absorber star part number (P/N) 30.23.005.01.04 installed. EASA advises that corrosion was found on the M/R vibration absorber star during routine maintenance. EASA advises subsequent investigation could not identify the root cause of the corrosion. EASA states this condition, if not detected and corrected, could lead to structural failure of the M/R vibration absorber star, possibly resulting in damage to the main or tail rotor and subsequent loss of control of the helicopter.

Accordingly, the EASA AD requires repetitive inspections of the M/R vibration absorber star, and depending on the outcome of the inspections, repair or replacement. The EASA AD also requires inspecting an M/R vibration absorber star before installation on a 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 of the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all information

provided by EASA and determining the unsafe condition exists and is likely to exist or develop on other helicopters of the same type design.

Related Service Information Under 1 CFR Part 51

WYTWORNIA SPRZĘTU KOMUNIKACYJNEGO ''PZL-Świdnik'' Spolka Akcyjna has issued Mandatory Bulletin No. BO–37–18–291, dated March 13, 2018, which specifies repetitively inspecting the M/R vibration absorber star for paint coating damage and for signs of corrosion. Depending on the inspection results, this service information specifies inspecting for corrosion under the bolt heads that secure the M/R vibration absorber star to the bracket and mechanically removing the paint coating on the M/R vibration absorber star to inspect further for corrosion. This service information also specifies removing corrosion and repairing mechanical damage that is within allowable limits. Additionally, this service information specifies emailing sketches showing the polishing depth in repaired M/R vibration absorber star surfaces to PZL Świdnik S.A. Finally, this service information specifies contacting PZL Świdnik S.A. for any corrosion or mechanical damage that reaches the maximum total polishing depth or for corrosion under a bolt head.

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.

AD Requirements

This AD requires visually inspecting certain areas of the M/R vibration absorber star within an initial compliance time based on the helicopter serial number, and thereafter, repeating the inspections at intervals not to exceed 300 hours time-in-service (TIS) or 12 months, whichever occurs first. This AD requires inspecting the M/R vibration absorber star for paint coating delamination, blistering, and discoloration, and missing paint coating, a scratch, a dent, a nick, and corrosion. If there is any paint coating delamination, blistering, or discoloration, or missing paint, a scratch, a dent, a nick, or corrosion, this AD requires mechanically removing any remaining paint coating. If there is no scratch, dent, nick, or corrosion, this AD requires repairing the paint coating. If there is a scratch, a dent, a nick, or corrosion less than the accumulated maximum total polishing depth of 0.5 mm, this AD requires repairing the surface. If there is a scratch, a dent, a nick, or corrosion that exceeds the accumulated maximum total polishing depth of 0.5 mm, this AD requires removing the M/R vibration absorber star from service. This AD also requires inspecting under each bolt head P/N 30.23.000.08.04 for corrosion. Lastly, this AD requires inspecting an M/R vibration absorber star before being installed on any helicopter.

Differences Between This AD and the EASA AD

The EASA AD applies to Model PZL W–3AS helicopters, whereas this AD does not because that model is not FAA type-certificated. The EASA AD requires reporting certain information to PZL Świdnik S.A., whereas this AD does not. The EASA AD requires contacting PZL Świdnik S.A., if the accumulated maximum total polishing depth exceeds 0.5 mm or if there is corrosion under the bolt head, whereas this AD requires repairing or replacing the affected part in accordance with FAA approved repair procedures or removing the affected part from service.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (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

There are no costs of compliance associated with this AD because there are no helicopters of this type certificate on the U.S. Registry.

FAA's Justification and Determination of the Effective Date

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

There are no helicopters with this type certificate on the U.S. Registry. Therefore, notice and opportunity for prior public comment are unnecessary pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the reasons stated above, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

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, 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):

2020–15–11 PZL Swidnik S.A.: Amendment 39–21174; Docket No. FAA–2020–0675; Product Identifier 2018–SW–027–AD.

(a) Applicability

This AD applies to PZL Swidnik S.A. (PZL) Model PZL W–3A helicopters, certificated in any category, with a main rotor (M/R) vibration absorber star part number (P/N) 30.23.005.01.04 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as corrosion pits in the M/R vibration absorber star. This condition could result in structural failure of the M/R vibration absorber star, damage to the main and tail rotor, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective August 11, 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

For helicopters with a serial number (S/N) up to 37.10.12 inclusive, within 25 hours time-in-service (TIS) or 15 days, whichever occurs first; and for helicopters with an S/N above 37.10.12, within 300 hours TIS or 12 months after the date of manufacture, whichever occurs first:

(1) Access the M/R vibration absorber by following Attachment 1, Procedure—Removal, Inspection, Repair, and Installation of Vibration Absorber Star, section II., of WYTWORNIA SPRZĘTU KOMUNIKACYJNEGO ''PZL-Swidnik'' Spolka Akcyjna Mandatory Bulletin No. BO–37–18–291, dated March 13, 2018 (MB BO–37–18–291 Attachment 1).

(i) Clean the M/R vibration absorber star surface. Visually inspect the M/R vibration absorber star for paint coating delamination, blistering, discoloration, and missing paint coating, a scratch, a dent, a nick, and corrosion.

(ii) If there is any paint coating delamination, blistering, or discoloration, or missing paint, any scratch, any dent, any nick, or corrosion, before further flight, mechanically remove any remaining paint coating and inspect the M/R vibration absorber star for a scratch, a dent, a nick, and corrosion. Additionally, inspect the heads of each bolt P/N 30.23.000.08.04 that secures the vibration absorber star to the bracket for corrosion under the bolt heads.

Note 1 to paragraph (e)(1)(ii) of this AD: the anodic coating may become damaged while removing the paint coating.

(A) If there is no scratch, dent, nick, or corrosion on the M/R vibration absorber star, before further flight, repair the paint coating.

(B) If there is a scratch, a dent, a nick, or corrosion on the M/R vibration absorber star not exceeding the accumulated maximum total polishing depth of 0.5 mm, using 80–100 grit abrasive paper or an equivalent grit file or scraper, polish out any scratch, dent, nick, and corrosion and do the following:

(*1*) Using 150–180 grit abrasive paper, blend the repaired surface and make a smooth chamfer as shown in Sketch 2. Blending Method, MB BO–37–18–291 Attachment 1. The blending width ''S'' must be at least 10 times greater than blending depth ''h.'' The radii ''R1'' and ''R2'' must be at least 5 times greater than depth ''h.''

(*2*) Using 600–900 grit abrasive paper, polish the repaired surface and repair the paint coating.

(C) If there is a scratch, a dent, a nick, or corrosion on the M/R vibration absorber star that meets or exceeds the accumulated maximum total polishing depth of 0.5 mm, before further flight, remove from service the M/R vibration absorber star.

(D) If there is corrosion on the head of any bolt P/N 30.23.000.08.04 that secures the vibration absorber star to the bracket, before further flight, repair or replace the M/R vibration absorber star in accordance with FAA approved procedures.

(2) Thereafter, at intervals not to exceed 300 hours TIS or 1 year, whichever occurs first, perform the actions required by paragraph (e)(1) of this AD.

(3) After the effective date of this AD, do not install an M/R vibration absorber star on any helicopter unless the requirements of paragraph (e)(1) of this AD have been accomplished.

(f) 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.

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD No. 2018–0070, dated March 27, 2018. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2020–0675.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6300, Main Rotor Drive System.

(i) Material Incorporated by Reference

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

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

(i) WYTWORNIA SPRZĘTU KOMUNIKACYJNEGO ''PZL-Swidnik'' Spolka Akcyjna Mandatory Bulletin No. BO–37–18–291, dated March 13, 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact PZL-Świdnik S.A., A1. Lotników Polskich 1, 21–045 Świdnik, Poland; telephone +48 81 468 09 01, 751 20 71; fax +48 81 468 09 19, 751 21 73; or at *www.pzl.swidnik.pl.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817- 222–5110.

(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 July 14, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–16129 Filed 7–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0136; Project Identifier MCAI–2019–00114–E; Amendment 39–21168; AD 2020–15–05]

RIN 2120–AA64

Airworthiness Directives; Austro Engine GmbH Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2018–18–02 for certain Austro Engine GmbH model E4 engines and all Austro Engine GmbH model E4P engines. AD 2018–18–02 required replacement of the timing chain and amending certain airplane flight manuals (AFMs) to limit the use of windmill restarts. This AD requires amendment of certain existing AFMs to limit the use of windmill restarts and removes the timing chain replacement requirement in AD 2018–18–02. This AD was prompted by reports of considerable wear of the timing chain on the affected engines. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 31, 2020.

The Director of the Federal Register approved the incorporation by reference

of certain publications listed in this AD as of August 31, 2020.

ADDRESSES: For service information identified in this final rule, contact Diamond Aircraft Industries, N. A., Otto-Straβe 5, A–2700 Wiener Neustadt, A2700, Austria; phone: +43 2622 26700; fax: +43 2622 26780; website: *www.diamondaircraft.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA, 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0136.

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–2020–0136; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mehdi Lamnyi, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7743; fax: 781–238–7199; email: *Mehdi.Lamnyi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2018–18–02, Amendment 39–19381 (83 FR 53802, October 25, 2018), (''AD 2018–18–02''). AD 2018–18–02 applied to certain Austro Engine GmbH model E4 engines and all Austro Engine GmbH model E4P engines. The NPRM published in the **Federal Register** on March 17, 2020 (85 FR 15079). The NPRM was prompted by reports of considerable wear of the timing chain on the affected engines. The NPRM proposed to retain the requirements of AD 2018–18–02 for amending certain AFMs to limit the use of windmill restarts to emergency procedures. The NPRM also proposed to remove the requirement in AD 2018–18–02 for replacing the timing chain. The FAA is issuing this AD to address the unsafe condition on these products.

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2017–0103R1, dated February 25, 2019 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> Considerable wear of the timing chain has been detected on some engines. This may have been caused by windmilling restarts, which are known to cause high stress to the timing chain. This condition, if not detected and corrected, could lead to failure of the timing chain and consequent engine power loss, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, AE included instructions in the engine maintenance manual to periodically inspect the condition of the timing chain and, depending on findings, to replace the timing chain and the chain wheel. The operation manual was updated to allow windmilling restart only as an emergency procedure. AE also published Mandatory Service Bulletin (MSB) MSB–E4–017/2, providing instructions to replace the timing chain for engines with known windmilling restarts, and EASA issued AD 2017–0103, requiring replacement of the timing chain for engines with known windmilling restarts, and amendment of the applicable Aircraft Flight Manual (AFM). Since that [EASA] AD was issued, AE revised the applicable Airworthiness Limitation Section (ALS) including, among others, the limitation required by that AD. Consequently, EASA published AD 2019–0041, requiring accomplishment of the actions specified in the ALS.
>
> For the reason described above, this [EASA] AD is revised accordingly, removing the requirement of timing chain replacement. This action remain required through EASA AD 2019–0041.

You may obtain further information by examining the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0136.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Diamond Aircraft (DA) Temporary Revision (TR) TR–MÄM–42–973, dated August 12, 2016, for the Diamond Aircraft Industries (DAI) model DA 42 NG Airplane Flight Manual (AFM) and DA TR TR–MÄM–62–240, dated August 12, 2016, for the DAI model DA 62 AFM. These TRs define the removal of the normal operation procedure for windmilling restart for the respective airplanes. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 211 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Amend AFM	1 work-hour × $85 per hour = $85	$0	$85	$17,935

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 9.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing AD 2018–18–02, Amendment 39–19381 (83 FR 53802, October 25, 2018); and

■ b. Adding the following new airworthiness directive (AD):

2020–15–05 Austro Engine GmbH: Amendment 39–21168; Docket No. FAA–2020–0136; Project Identifier MCAI–2019–00114–E.

(a) Effective Date

This AD is effective August 31, 2020.

(b) Affected ADs

This AD replaces AD 2018–18–02, Amendment 39–19381 (83 FR 53802, October 25, 2018).

(c) Applicability

This AD applies to Austro Engine GmbH model E4 engines with serial numbers that have a ''–B'' or ''–C'' configuration and to model E4P engines, all serial numbers.

(d) Subject

Joint Aircraft System Component (JASC) Code 8520, Reciprocating Engine Power Section.

(e) Unsafe Condition

This AD was prompted by reports of considerable wear of the timing chain on the affected engines. The FAA is issuing this AD to prevent failure of the engine timing chain. The unsafe condition, if not addressed, could result in failure of the engine timing chain, loss of engine thrust control, and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within 30 days after the effective date of this AD, under the Emergency Procedures chapter, amend the applicable airplane flight manual (AFM) by adding the information in Figure 1 to paragraph (g)(1) of this AD to limit the use of a windmilling restart to only an emergency procedure.

Figure 1 to Paragraph (g)(1) – *Restart In-Flight by Windmilling*

Restart In-Flight by Windmilling

In case of an engine malfunction, determine the root cause and only continue if a safe restart is possible.

1. Max. demonstrated altitude for immediate restart by windmilling: 15,000 ft.
2. Max. demonstrated altitude for restart after 10 min. and ambient air temperature higher than ISA by windmilling: 10,000 ft.
3. Max. demonstrated altitude for restart after 5 min. and ambient air temperature between ISA and ISA minus 10°C by windmilling: 10,000 ft.
4. Max. demonstrated altitude for restart after 2 min. and ambient air temperature below ISA minus 10°C by windmilling: 10,000 ft.
5. Airspeed: See applicable Aircraft Flight Manual.
6. Power Levers – "IDLE"
7. Engine Master – "ON"

Move power lever slightly forward to a power rating that assures the referring engine is delivering thrust as a rotating propeller is not a guarantee for a running engine.

(2) For affected Austro Engine GmbH model E4 engines installed on Diamond Aircraft Industries (DAI) model Diamond Aircraft (DA) 42 NG and DA 42 M–NG airplanes, and for Austro Engine GmbH model E4P engines installed on DAI model DA 62 airplanes, using DA AFM Temporary Revision (TR) TR–MÄM–42–973, and DA AFM TR TR–MÄM–62–240, both dated August 12, 2016, to update the applicable AFM is an acceptable method to comply with paragraph (g)(1) of this AD.

(h) Credit for Previous Actions

You may take credit for actions required by paragraph (g) of this AD if you amended the applicable AFM for the airplane with the affected engine installed before the effective date of this AD in accordance with AD 2018–18–02.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ECO Branch, send it to the attention of the person identified in paragraph (j)(1) of this AD. You may email your request to: *ANE-AD-AMOC@faa.gov.*

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

(j) Related Information

(1) For more information about this AD, contact Mehdi Lamnyi, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA, 01803; phone: 781–238–7743; fax: 781–238–7199; email: *Mehdi.Lamnyi@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2017–0103R1, dated February 25, 2019, for more information. You may examine the EASA AD in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating it in Docket No. FAA–2020–0136.

(k) Material Incorporated by Reference

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

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

(i) Diamond Aircraft (DA) Temporary Revision (TR) TR–MÄM–42–973, dated August 12, 2016, for the Diamond Aircraft Industries (DAI) model DA 42 NG Airplane Flight Manual (AFM).

(ii) DA AFM TR TR–MÄM–62–240, dated August 12, 2016, for the DAI model DA 62 AFM.

(3) For Diamond Aircraft Industries service information identified in this AD, contact Diamond Aircraft Industries, N.A., Otto-Straβe 5, A–2700 Wiener Neustadt, A2700, Austria; phone: +43 2622 26700; fax: +43 2622 26780; website: *www.diamondaircraft.com.*

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

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

Issued on July 9, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–16127 Filed 7–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0424; Project Identifier MCAI–2019–00130–E; Amendment 39–21171; AD 2020–15–08]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (Type Certificate Previously Held by Rolls-Royce plc) Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Rolls-Royce Deutschland Ltd & Co KG (RRD) Trent 1000–A, Trent 1000–A2, Trent 1000–AE, Trent 1000–AE2, Trent 1000–C, Trent 1000–C2, Trent 1000–CE, Trent 1000–CE2, Trent 1000–D, Trent 1000–D2, Trent 1000–E, Trent 1000–E2, Trent 1000–G, Trent 1000–G2, Trent 1000–H, Trent 1000–H2, Trent 1000–J2, Trent 1000–K2, and Trent 1000–L2 model turbofan engines. This AD was prompted by the manufacturer identifying 38 low-pressure compressor (LPC) front cases that have non-optimal properties that could inhibit their ability to contain certain engine failures. This AD requires removing the LPC front case from service and replacing it with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 31, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 31, 2020.

ADDRESSES: For service information identified in this final rule, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, 15827 Blankenfelde-Mahlow, Germany; phone: +49 (0) 33 708 6 0; email: *https://www.rolls-royce.com/contact-us.aspx.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0424.

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–2020–0424; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Stephen Elwin, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7236; fax: 781–238–7199; email: *stephen.l.elwin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all RRD Trent 1000–A, Trent 1000–A2, Trent 1000–AE, Trent 1000–AE2, Trent 1000–C, Trent 1000–C2, Trent 1000–CE, Trent 1000–CE2, Trent 1000–D, Trent 1000–D2, Trent 1000–E, Trent 1000–E2, Trent 1000–G, Trent 1000–G2, Trent 1000–H, Trent 1000–H2, Trent 1000–J2, Trent 1000–K2, and Trent 1000–L2 model turbofan engines. The NPRM published in the **Federal Register** on April 30, 2020 (85 FR 23929). The NPRM was prompted by the manufacturer identifying 38 LPC front cases that have non-optimal properties that could inhibit their ability to contain certain engine failures. The NPRM proposed to require removing the LPC front case from service and replacing it with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2019–0286, dated November 26, 2019 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> Engineering analysis has identified that 38 LPC front cases have non-optimal material properties. This could inhibit the intended function of the LPC front case to contain certain engine failures.
>
> This condition, if not corrected, could, in case of fan blade failure, lead to high energy debris release, possibly resulting in damage to, and reduced control of, the aeroplane.
>
> To address this potential unsafe condition, Rolls-Royce developed an updated life management and issued the NMSB, identifying those ESN that have an affected part installed, and providing the corresponding limit (date) for in-shop front fan case replacement.
>
> For the reason described above, this [EASA] AD requires removal from service of the affected engines to replace the affected parts. This [EASA] AD also prohibits re-installation of affected parts.

You may obtain further information by examining the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0424.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comment received. Boeing Commercial Airplanes supported the NPRM.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Rolls-Royce plc Alert Non-Modification Service Bulletin (NMSB) Trent 1000 72–AK294, dated July 16, 2019. The NMSB contains the serial numbers of the affected LPC front cases, the engine serial numbers on which these LPC front cases are installed, and the date to remove each engine from service. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects three engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Remove and replace the LPC front case	390 work-hours × $85 per hour = $33,150	$1,238,654	$1,271,804	$3,815,412

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–15–08 Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc): Amendment 39–21171; Docket No. FAA–2020–0424; Project Identifier MCAI–2019–00130–E.

(a) Effective Date

This AD is effective August 31, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc) Trent 1000–A, Trent 1000–A2, Trent 1000–AE, Trent 1000–AE2, Trent 1000–C, Trent 1000–C2, Trent 1000–CE, Trent 1000–CE2, Trent 1000–D, Trent 1000–D2, Trent 1000–E, Trent 1000–E2, Trent 1000–G, Trent 1000–G2, Trent 1000–H, Trent 1000–H2, Trent 1000–J2, Trent 1000–K2, and Trent 1000–L2 model turbofan engines.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by the manufacturer identifying 38 low-pressure compressor (LPC) front cases, part number (P/N) KH26266 with individual serial numbers (S/Ns), that have non-optimal properties that could inhibit their ability to contain certain engine failures. The FAA is issuing this AD to prevent failure of the LPC front case when subjected to high-energy debris release. The unsafe condition, if not addressed, could result in uncontained release of high-energy debris, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

After the effective date of this AD, no later than the required removal date specified in Appendix 1 of Rolls-Royce Alert Non-Modification Service Bulletin (NMSB) Trent 1000 72–AK294, dated July 16, 2019 (''Rolls-Royce Alert NMSB Trent 1000 72–AK294''):

(1) Remove LPC front case, P/N KH26266 and with a S/N identified in Appendix 1 of Rolls-Royce Alert NMSB Trent 1000 72–AK294, and

(2) Replace the LPC front case with a part eligible for installation.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ECO Branch, send it to the attention of the person identified in paragraph (i)(1) of this AD. You may email your request to: *ANE-AD-AMOC@faa.gov.*

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

(i) Related Information

(1) For more information about this AD, contact Stephen Elwin, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7236; fax: 781–238–7199; email: *stephen.l.elwin@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2019–0286, dated November 26, 2019, for more information. You may examine the EASA AD in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0424.

(j) Material Incorporated by Reference

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

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

(i) Rolls-Royce plc (RR) Alert Non-Modification Service Bulletin Trent 1000 72–AK294, dated July 16, 2019.

(ii) [Reserved]

(3) For RR service information identified in this AD, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, 15827 Blankenfelde-Mahlow, Germany; phone: +49 (0) 33 708 6 0; email: *https://www.rolls-royce.com/contact-us.aspx.*

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

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

Issued on July 10, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–16119 Filed 7–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0009; Project Identifier MCAI–2019–00111–E; Amendment 39–21175; AD 2020–15–12]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (Type Certificate Previously Held by Rolls-Royce plc) Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2018–08–02 for all Rolls-Royce Deutschland Ltd & Co KG (RRD) Trent 1000–A2, Trent 1000–AE2, Trent 1000–C2, Trent 1000–CE2, Trent 1000–D2, Trent 1000–E2, Trent 1000–G2, Trent 1000–H2, Trent 1000–J2, Trent 1000–K2, and Trent 1000–L2 model turbofan engines. AD 2018–08–02 required initial and repetitive ultrasonic or visual inspections of the intermediate-pressure compressor (IPC) stage 1 rotor blades, IPC stage 2 rotor blades, and IPC shaft stage 2 dovetail posts, and removal of any cracked parts from service. This AD requires new inspections based on updated inspection thresholds and intervals for these IPC parts. This AD also adds an optional terminating action, amends the asymmetric power condition for engine inspection, and requires an inspection after a cabin depressurization event. This AD was prompted by IPC blade separations resulting in engine failures. Subsequently, the manufacturer identified the need to add new inspections and an optional terminating action, amend the asymmetric power condition for engine inspection, and require an inspection after a cabin depressurization event. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 31, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 31, 2020.

ADDRESSES: For service information identified in this final rule, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, 15827 Blankenfelde-Mahlow, Germany; phone: +49 (0) 33 708 6 0; email: *https://www.rolls-royce.com/contact-us.aspx.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803 For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0009.

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–2020–0009; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Stephen Elwin, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7236; fax: 781–238–7199; email: *Stephen.L.Elwin@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2018–08–02, Amendment 39–19255 (83 FR 17746, April 24, 2018), (''AD 2018–08–02''). AD 2018–08–02 applied to all RRD Trent 1000–A2, Trent 1000–AE2, Trent 1000–C2, Trent 1000–CE2, Trent 1000–D2, Trent 1000–E2, Trent 1000–G2, Trent 1000–H2, Trent 1000–J2, Trent 1000–K2, and Trent 1000–L2 model turbofan engines. The NPRM published in the **Federal Register** on April 30, 2020 (85 FR 23925). The NPRM was prompted by IPC blade separations resulting in engine failures. Subsequently, the manufacturer identified cracking of parts in-service resulting in the need to require new inspections using new inspection thresholds and intervals. The manufacturer also determined the need to add an optional terminating action, amend the asymmetric power condition for engine inspection, and require an inspection after a cabin depressurization event. The NPRM proposed to require new inspections based on updated inspection thresholds and intervals for these IPC parts. The NPRM also proposed to add an optional terminating action, amend the asymmetric power condition for engine inspection, and require an inspection after a cabin depressurization event. The FAA is issuing this AD to address the unsafe condition on these products.

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2019–0250, dated October 9, 2019 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> Occurrences were reported on Rolls-Royce Trent 1000 'Pack C' engines, where some IPC Rotor 1 and Rotor 2 blades were found cracked.
>
> This condition, if not detected and corrected, could lead to in-flight blade release, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, Rolls-Royce initially issued Alert NMSB TRENT 1000 72–AJ814 and 72–AJ819 to provide inspection instructions for IPC Rotor 1 blades, and IPC Rotor 2 blades and IPC shaft Stage 2 dovetail posts, respectively. Rolls-Royce also issued NMSB TRENT 1000 72–J871 to provide rework instructions for the affected parts, and Alert NMSB TRENT 1000 72–AJ869 to inspect those post-rework parts. Consequently, EASA issued AD 2017–0248 to require repetitive inspections of the affected IPC Rotor blades and IPC shaft Stage 2 dovetail posts and, depending on findings, removal from service of the engine for corrective action.
>
> After that [EASA] AD was issued, Rolls-Royce issued Alert NMSB TRENT 1000 72–AK058 to provide instructions for a one-time on-wing inspection. Consequently, EASA issued AD 2018–0073, retaining the requirements of EASA AD 2017–0248, which was superseded, to require an additional borescope inspection of certain engines and, depending on findings, removal from service of the engine for corrective action.
>
> After that [EASA] AD was issued, it was determined that repetitive borescope inspections are necessary on all engines to ensure fleet-wide continued safe operation. Consequently, Rolls-Royce revised Alert NMSB TRENT 1000 72–AJ869, Alert NMSB TRENT 1000 72–AJ814, Alert NMSB TRENT 1000 72–AJ819 and NMSB TRENT 1000 72–J871, and issued NMSB TRENT 1000 72–AK060 to consolidate all inspection

instructions. Consequently, EASA issued AD 2018–0084 (later revised), retaining the requirements of EASA AD 2018–0073, which was superseded, and requiring repetitive on-wing borescope inspections of the affected Rotor 1 parts and affected Rotor 2 parts and, depending on findings, removal from service of the engine for corrective action. That [EASA] AD also introduced specific requirements for engines installed on aeroplanes involved in ETOPS, and inspection following operation in asymmetric power conditions.

Rolls-Royce then introduced NMSB Trent 1000 72–AK092 to provide inspections for the rear face of the Rotor 2 blades and NMSB TRENT 1000 72–AK060 was revised (R1) accordingly. Later, Rolls-Royce developed mod 72–J941, installing improved IPC Stage 1 and Stage 2 rotor blades, and issued the modification SB, providing the necessary instructions for in-service application. EASA issued AD 2018–0084R2 to exclude post-mod 72–J941 engines from the Applicability and introducing the modification SB as terminating action for the repetitive inspections as required by that [EASA] AD.

Since that [EASA] AD was issued, Rolls-Royce issued the NMSB and revised Alert NMSB TRENT 1000 72–AJ814, 72–AJ819 and 72–AK092 to introduce new inspections, new thresholds and new intervals, depending on engine configuration. These inspections are now applicable for all operations, ETOPS and non-ETOPS. The latest revision of the NMSB also amended the asymmetric power conditions for engine inspection and introduced cabin depressurisation as an event to trigger engine inspection(s).

For the reason described above, this [EASA] AD requires introduction of the new inspections, replacing those previously imposed by EASA AD 2018–0084R2 (through NMSB TRENT 1000 72–AK060), and removes the references to Engine Health Monitoring messages and ETOPS-related requirements.

You may obtain further information by examining the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0009.

Comments

The FAA gave the public the opportunity to participate in developing this AD. The FAA has considered the comment received. Boeing Commercial Airplanes supported the NPRM.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Rolls-Royce plc (RR) Alert Non-Modification Service Bulletin (NMSB) Trent 1000 72–AK313, Revision 1, dated August 22, 2019; and RR Service Bulletin (SB) Trent 1000 72–J941, Revision 1, dated February 6, 2019, and Initial Issue, dated December 6, 2018. RR Alert NMSB Trent 1000 72–AK313 defines the initial inspection threshold and repeat inspection intervals for Trent 1000 IPC stage 1 blade, stage 2 blade, and IPC shaft stage 2 dovetail posts. RR SB Trent 1000 72–J941 describes procedures for modifying the engine by installing the redesigned IPC stage 1 and stage 2 rotor blades. 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 RR Alert NMSB Trent 1000 72–AJ819, Revision 4, dated May 3, 2019; RR Alert NMSB Trent 1000 72–AJ814, Revision 5, dated May 3, 2019; and RR Alert NMSB Trent 1000 72–AK092, Revision 4, dated May 3, 2019. RR Alert NMSB Trent 1000 72–AJ819 describes procedures for performing a visual borescope inspection of the IPC stage 2 rotor blades and IPC shaft stage 2 dovetail posts. RR Alert NMSB Trent 1000 72–AJ814 describes procedures for performing an ultrasonic inspection (USI) of the IPC stage 1 rotor blades. RR Alert NMSB Trent 1000 72–AK092 describes procedures for performing a USI of the IPC stage 2 rotor blades.

Costs of Compliance

The FAA estimates that this AD affects 7 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect the IPC stage 1 blade root (Front Face).	20 work-hours × $85 per hour = $1,700	$0	$1,700	$11,900
Inspect the IPC stage 2 blade root (Front Face) and IPC shaft stage 2 dovetail post (Front Face).	6 work-hours × $85 per hour = $510	0	510	3,570
Inspect the IPC stage 2 blade root (Rear Face).	10 work-hours × $85 per hour = $850	0	850	5,950

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace all 34 R1 Blades	280 work-hours × $85 per hour = $23,800	$52,360	$76,160
Replace all 49 R2 Blades	280 work-hours × $85 per hour = $23,800	48,755	72,555
Replace IPC Drum	144 work-hours × $85 per hour = $12,240	1,370,000	1,382,240

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 part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2018–08–02, Amendment 39–19255 (83 FR 17746, April 24, 2018); and

■ b. Adding the following new AD:

2020–15–12 Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc): Amendment 39–21175; Docket No. FAA–2020–0009; Project Identifier MCAI–2019–00111–E.

(a) Effective Date

This AD is effective August 31, 2020.

(b) Affected ADs

This AD replaces AD 2018–08–02, Amendment 39–19255 (83 FR 17746, April 24, 2018).

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc) Trent 1000–A2, Trent 1000–AE2, Trent 1000–C2, Trent 1000–CE2, Trent 1000–D2, Trent 1000–E2, Trent 1000–G2, Trent 1000–H2, Trent 1000–J2, Trent 1000–K2, and Trent 1000–L2 model turbofan engines, except those that have the redesigned intermediate-pressure compressor (IPC) stage 1 and stage 2 rotor blades introduced by Rolls-Royce plc (RR) Service Bulletin (SB) Trent 1000 72–J941, Revision 1, dated February 6, 2019.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by IPC blade separations resulting in engine failures. Subsequently, the manufacturer identified cracking of parts in-service resulting in the need to require new inspections using new inspection thresholds and intervals. The manufacturer also determined the need to add an optional terminating action, amend the asymmetric power condition for engine inspection, and require an inspection after a cabin depressurization event. The FAA is issuing this AD to prevent failure of the IPC. The unsafe condition, if not addressed, could result in failure of one or more engines, loss of thrust control, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

(1) After the effective date of this AD, before exceeding the initial inspection thresholds and repeat inspection intervals specified in Table 1 of RR Alert Non-Modification Service Bulletin (NMSB) Trent 1000 72–AK313, Revision 1, dated August 22, 2019 (''RR NMSB Trent 1000 72–AK313, R1''):

(i) Perform initial ultrasonic inspections (USIs) of the IPC stage 1 blade root (front face).

(ii) Thereafter, perform repetitive USIs of the IPC stage 1 blade root (front face).

(iii) Use the Accomplishment Instructions, paragraph 3.A.(1)(a) (on-wing) or 3.A.(2)(a) and (b) (in-shop) of RR NMSB Trent 1000 72–AK313, R1 to perform the inspections.

(2) After the effective date of this AD, before exceeding the initial inspection thresholds and repeat inspection intervals specified in Table 2 of RR NMSB Trent 1000 72–AK313, R1:

(i) Perform initial visual inspections of the IPC stage 2 blade root (front face) and IPC shaft stage 2 dovetail post (front face).

(ii) Thereafter, perform repetitive visual inspections of the IPC stage 2 blade root (front face) and IPC shaft stage 2 dovetail post (front face).

(iii) Use the Accomplishment Instructions, paragraph 3.B.(1)(a) (on-wing) or 3.B.(2)(b) (in-shop) of RR NMSB Trent 1000 72–AK313, R1 to perform the inspections.

(3) After the effective date of this AD, before exceeding the initial inspection threshold and repeat inspection intervals specified in Table 2 of RR NMSB Trent 1000 72–AK313, R1:

(i) Perform initial USIs of IPC stage 2 blade root (rear face).

(ii) Thereafter, perform repetitive USIs of IPC stage 2 blade root (rear face).

(iii) Use the Accomplishment Instructions, paragraph 3.C.(1)(a) (on-wing) or 3.C.(2)(a) (in-shop) of RR NMSB Trent 1000 72–AK313, R1 to perform the inspections.

(4) After the effective date of this AD, within 5 engine flight cycles (FCs) after each occurrence in which any engine operates in asymmetric power conditions at an altitude of less than 28,000 feet, perform the following inspections on the engine not affected by the power reduction or in-flight shutdown (IFSD):

(i) Perform initial USIs and visual inspections required by paragraphs (g)(1), (2), and (3) of this AD.

(ii) Thereafter, perform the repetitive USIs and visual inspections required by paragraphs (g)(1), (2), and (3) of this AD.

(iii) Use the service information and repetitive inspection thresholds required by paragraphs (g)(1)(iii), (2)(iii), and (3)(iii) to perform the inspections, as applicable.

(5) After the effective date of this AD, within 5 engine FCs following a cabin depressurization event, perform the following inspections on both engines installed on the airplane:

(i) Perform initial USIs and visual inspections required by paragraphs (g)(1), (2), and (3) of this AD.

(ii) Thereafter, perform the repetitive USIs and visual inspections required by paragraphs (g)(1), (2), and (3) of this AD.

(iii) Use the service information and repetitive inspection thresholds required by paragraphs (g)(1)(iii), (2)(iii), and (3)(iii) to perform the inspections, as applicable.

(6) If any IPC stage 1 blade root (front face), IPC stage 2 blade root (front face), IPC shaft stage 2 dovetail post (front face), or IPC stage 2 blade root (rear face) is found cracked during any inspection required by this AD, replace the part with a part eligible for installation before further flight.

(h) Terminating Action (Optional)

Modification of an engine by installing the redesigned IPC stage 1 and stage 2 rotor blades, using RR SB Trent 1000 72–J941, Revision 1, dated February 6, 2019, or Initial Issue, dated December 6, 2018, is the terminating action for the initial and repetitive ultrasonic or visual inspection requirements, as applicable, of paragraph (g)(1) through (5) of this AD for that engine.

(i) Definition

For the purpose of this AD, an ''asymmetric power condition'' is the

operation of the airplane at an altitude of less than 28,000 feet, experiencing either single engine take-off, engine fault (reduced power on one engine), or single engine IFSD, which includes execution of any non-normal checklist procedure.

(j) Credit for Previous Actions

You may take credit for the initial inspections required by paragraphs (g)(1) through (5) of this AD if you performed these inspections before the effective date of this AD using any of the following.

(1) RR Alert NMSB Trent 1000 72–AJ819, Revision 3, dated April 13, 2018, or earlier revisions;

(2) RR NMSB Trent 1000 72–AJ814, Revision 4, dated September 28, 2018, or earlier revisions;

(3) RR Alert NMSB Trent 1000 72–AK313, Initial Issue, dated May 2, 2019; or

(4) RR Alert NMSB Trent 1000 72–AK092, Revision 3, dated February 28, 2019 or earlier revisions.

(k) Special Flight Permit

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are subject to the requirements of paragraph (k)(1) of this AD.

(1) Operators who are prohibited from further flight due to a crack finding as a result of paragraph (g) of this AD, may perform a one-time non-revenue ferry flight to a location where the engine can be removed from service. This ferry flight must be performed without passengers, involve non-ETOPS operation, and consume no more than three FCs.

(2) [Reserved]

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (m)(1) of this AD. You may email your request to: *ANE-AD-AMOC@faa.gov.*

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

(m) Related Information

(1) For more information about this AD, contact Stephen Elwin, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7236; fax: 781–238–7199; email: *Stephen.L.Elwin@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2019–0250, dated October 9, 2019, for more information. You may examine the EASA AD in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0009.

(n) Material Incorporated by Reference

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

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

(i) Rolls-Royce plc (RR) Alert Non-Modification Service Bulletin Trent 1000 72–AK313, Revision 1, dated August 22, 2019.

(ii) RR Service Bulletin (SB) Trent 1000 72–J941, Revision 1, dated February 6, 2019.

(iii) RR SB Trent 1000 72–J941, Initial Issue, dated December 6, 2018.

(3) For RR service information identified in this AD, contact Rolls-Royce Deutschland Ltd. & Co KG, Eschenweg 11, 15827 Blankenfelde-Mahlow, Germany; phone: +49 (0) 33 708 6 0; email: *https://www.rolls-royce.com/contact-us.aspx.*

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

(5) You may view this service information 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: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on July 15, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–16175 Filed 7–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No.: FAA–2011–0246; Amdt. No. 91–321E]

RIN 2120–AL47

Prohibition Against Certain Flights in the Tripoli Flight Information Region (FIR) (HLLL)

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

ACTION: Final rule.

SUMMARY: This action amends, with modifications to reflect changed conditions in Libya and the associated risks to U.S. civil aviation safety, the Special Federal Aviation Regulation (SFAR) prohibiting certain flight operations in the Tripoli Flight Information Region (FIR) (HLLL) by all: United States (U.S.) air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except when the operator of such aircraft is a foreign air carrier. This action incorporates the FAA's prohibition on U.S. civil flight operations in the territory and airspace of Libya at all altitudes contained in Notice to Airmen (NOTAM) KICZ A0026/19, into the SFAR. In addition, the FAA remains concerned about the safety of U.S. civil aviation operations at altitudes below Flight Level (FL) 300 in those portions of the Tripoli FIR (HLLL) that are outside the territory and airspace of Libya because of the hazards described in the preamble to the FAA's March 2019 final rule. Accordingly, this final rule also prohibits U.S. civil flight operations below FL300 in those portions of the Tripoli FIR (HLLL) outside the territory and airspace of Libya. This action also extends the expiration date of the SFAR from March 20, 2021, to March 20, 2023. Finally, the FAA republishes the approval process and exemption information for this SFAR, consistent with other recently published flight prohibition SFARs, and makes minor administrative revisions.

DATES: This final rule is effective on July 27, 2020.

FOR FURTHER INFORMATION CONTACT: Dale E. Roberts, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone 202–267–8166; email *dale.e.roberts@faa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

This action amends, with modifications to reflect changed conditions in Libya and the associated risks to U.S. civil aviation safety, the prohibition against certain U.S. civil flight operations in the Tripoli FIR (HLLL) by all: U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except when the operator of such aircraft is a foreign air carrier. Specifically, this amendment prohibits all persons described in paragraph (a) of SFAR No. 112, § 91.1603 of title 14, Code of Federal Regulations (CFR), from conducting flight operations in the territory and airspace of Libya at all altitudes due to the geographic expansion and escalation of the ongoing

conflict between the Tripoli-based Government of National Accord (GNA) and the Tobruk-based Libyan National Army (LNA) for control over Libya's government, territory, and resources. This amendment incorporates the flight prohibition contained in NOTAM KICZ A0026/19, issued on October 23, 2019, into SFAR No. 112, § 91.1603. This amendment also continues the prohibition against all flights by U.S. civil operators and airmen at altitudes below FL300 in those portions of the Tripoli FIR (HLLL) outside the territory and airspace of Libya. Cumulatively, the result is that U.S. civil operators and airmen may only operate in the Tripoli FIR (HLLL) if they remain outside the territory and airspace of Libya and at altitudes at or above FL300, unless they have received an exemption or approval from the FAA. Consequently, U.S. operators continue to have the option of using several airways connecting western Africa with the Middle East, provided that they operate at altitudes at or above FL300 while they are in the Tripoli FIR (HLLL).

This action also extends the expiration date of this SFAR from March 20, 2021, to March 20, 2023. The FAA also republishes the approval process and exemption information for this SFAR, consistent with other recently published flight prohibition SFARs, and makes minor administrative revisions.

II. Legal Authority and Good Cause

A. Legal Authority

The FAA is responsible for the safety of flight in the U.S. and for the safety of U.S. civil operators, U.S.-registered civil aircraft, and U.S.-certificated airmen throughout the world. Sections 106(f) and (g) of title 49, U.S. Code, subtitle I establish the FAA Administrator's authority to issue rules on aviation safety. Subtitle VII of title 49, Aviation Programs, describes in more detail the scope of the agency's authority. Section 40101(d)(1) provides that the Administrator shall consider in the public interest, among other matters, assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce. Section 40105(b)(1)(A) requires the Administrator to exercise this authority consistently with the obligations of the U.S. Government under international agreements.

The FAA is promulgating this rulemaking under the authority described in 49 U.S.C. 44701, General requirements. Under that section, the FAA is charged broadly with promoting safe flight of civil aircraft in air commerce by prescribing, among other things, regulations and minimum standards for practices, methods, and procedures that the Administrator finds necessary for safety in air commerce and national security.

This regulation is within the scope of the FAA's authority because it prohibits the persons described in paragraph (a) of SFAR No. 112, § 91.1603, from conducting flight operations at all altitudes in the territory and airspace of Libya due to the geographic expansion and escalation of the ongoing conflict between the Tripoli-based GNA and the Tobruk-based LNA for control over Libya's government, territory, and resources, as described in the preamble to this final rule. Under the same authority, this action also continues the FAA's prohibition on U.S. civil flight operations at altitudes below FL300 in the remainder of the Tripoli FIR (HLLL), due to the hazards in that airspace, also described in the preamble to this final rule.

B. Good Cause for Immediate Adoption

Section 553(b)(3)(B) of title 5, U.S. Code, authorizes agencies to dispense with notice and comment procedures for rules when the agency for ''good cause'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Section 553(d) also authorizes agencies to forgo the delay in the effective date of the final rule for good cause found and published with the rule. In this instance, the FAA finds good cause exists to forgo notice and comment because notice and comment would be impracticable and contrary to the public interest. In addition, it is contrary to the public interest to delay the effective date of this amendment.

The risk environment for U.S. civil aviation in airspace managed by other countries with respect to safety of flight is fluid because of the risks posed by weapons capable of targeting, or otherwise negatively affecting, U.S. civil aviation, as well as other hazards to U.S. civil aviation associated with fighting, extremist/militant activity, or heightened tensions. This fluidity and the need for the FAA to rely upon classified information in assessing these risks make seeking notice and comment impracticable and contrary to the public interest. With respect to the impracticability of notice and comment procedures, the potential for rapid changes in the risks to U.S. civil aviation significantly limits how far in advance of a new or amended flight prohibition the FAA can usefully assess the risk environment. Furthermore, to the extent that these rules and any amendments to them are based upon classified information, the FAA is not legally permitted to share such information with the general public, who cannot meaningfully comment on information to which they are not legally allowed access.

Under these conditions, public interest considerations also favor not issuing notice and seeking comments for these rules and any amendments to them. While there is a public interest in having an opportunity for the public to comment on agency action, there is a greater public interest in having the FAA's flight prohibitions, and any amendments thereto, reflect the agency's most current understanding of the risk environment for U.S. civil aviation. This allows the FAA to protect the safety of U.S. operators' aircraft and the lives of their passengers and crews without over-restricting U.S. operators' routing options. The FAA has identified a need to prohibit all persons described in paragraph (a) of SFAR No. 112, § 91.1603, from conducting flight operations at all altitudes in the territory and airspace of Libya due to the geographic expansion and escalation of the ongoing conflict between the Tripoli-based GNA and the Tobruk-based LNA for control over Libya's government, territory, and resources. The FAA has also identified a need to continue to prohibit U.S. civil flight operations at altitudes below FL300 in those portions of the Tripoli FIR (HLLL) outside the territory and airspace of Libya due to the continuing hazards in that airspace described in the preamble of this final rule.

For these reasons, the FAA finds good cause to forgo notice and comment and any delay in the effective date for this final rule.

III. Background

As a result of safety and national security concerns regarding flight operations in the Tripoli FIR (HLLL) during the Libyan Revolution and its aftermath, the FAA prohibited U.S. civil flight operations at all altitudes in the entire Tripoli FIR (HLLL) between March 2011 and March 2019.[1] In its

[1] For a more comprehensive history of SFAR No. 112, 14 CFR 91.1603, during this time period, see *Prohibition Against Certain Flights Within the Tripoli (HLLL) Flight Information Region (FIR)* final rule, 76 FR 16238, March 23, 2011; *Prohibition Against Certain Flights Within the Tripoli Flight Information Region (FIR); Extension of Expiration Date* final rule, 79 FR 15679, March 20, 2014, corrected at 79 FR 19288, April 8, 2014; *Prohibition Against Certain Flights Within the Tripoli (HLLL) Flight Information Region (FIR); Extension of Expiration Date* final rule, 80 FR 15503, March 24, 2015; and *Extension of the Prohibition Against*

Continued

March 2019 final rule (84 FR 9950), the FAA found security and safety conditions had sufficiently improved to allow U.S. civil flights to operate in the Tripoli FIR (HLLL) at altitudes at or above FL300.[2] Extremist/militant elements operating in Libya were believed not to possess anti-aircraft weapons capable of threatening U.S. civil aviation operations at or above FL260, and there was a lower risk of civil-military de-confliction concerns at cruising altitudes at or above FL300. Additionally, while there were, and continue to be, two air navigation service providers (ANSPs) operating in the Tripoli FIR (HLLL),[3] the FAA determined that this situation posed a minimal safety risk to U.S. civil overflight operations. The Tripoli-based ANSP, which is recognized by the International Civil Aviation Organization (ICAO), had publicized overflight instructions in the Aeronautical Information Publication and a NOTAM containing overflight procedures for civil aviation operations in the Tripoli FIR (HLLL). The FAA also had not received any reports of the two ANSPs providing conflicting guidance to civil aircraft or otherwise behaving in ways that would pose safety of flight concerns for international overflights. Based on this assessment, the FAA determined that overflights of the Tripoli FIR (HLLL) could be conducted safely at altitudes at or above FL300, subject to the approval of, and in accordance with the conditions established by, the appropriate authorities of Libya.

However, as described in the March 2019 final rule, the FAA found an extension of the flight prohibition was necessary for the Tripoli FIR (HLLL) at altitudes below FL300 to safeguard against continuing hazards to U.S. civil aviation. These hazards related to continued instability in Libya; fighting involving various militia, extremist, and militant elements; the ready availability of anti-aircraft-capable weapons to extremists and militants; and aerial activity by foreign sponsors supporting various elements operating in Libya that might not be adequately de-conflicted with civil air traffic. The risks to U.S. civil aviation were greatest at airports in Libya and during low altitude operations near airports or in areas of actual or potential fighting.

The FAA also noted in its March 2019 final rule that Libya remained politically unstable, with a fragile security situation.[4] Since the fall of Muammar Gaddafi's regime, Libya had struggled with a power vacuum, a limited security apparatus, and limited territorial control. Multiple extremist and militant groups with footholds in Libya were armed with anti-aircraft-capable weapons. Various militia, extremist, and militant groups continued to vie for strategic influence and control of vital infrastructure, including airports, resulting in flight disruptions and damage to aircraft and airport facilities on various occasions in 2017 and 2018. Violent extremists and militants active in Libya possessed, or had access to, a wide array of anti-aircraft-capable weapons posing a risk to U.S. civil aviation operating at altitudes below FL260.

Additionally, foreign sponsor aerial activities, including a variety of unmanned aircraft systems (UAS), other military aircraft operations, and the potential for electronic interference from counter-UAS measures, presented a civil-military de-confliction challenge for civil aircraft operating at altitudes below FL300. While the FAA recognized that aircraft overflying the Tripoli FIR (HLLL) at altitudes at or above FL300 could potentially encounter electronic interference from counter-UAS measures, such interference would not present a significant flight safety hazard. At cruising altitudes at or above FL300, the FAA expects pilots would have sufficient time to recognize the interference and respond to it by using other instruments or navigation aids.

Accordingly, in the March 2019 final rule, based on the improved safety and security conditions in the Tripoli FIR (HLLL) at altitudes at or above FL300, the FAA modified its flight prohibition for U.S. civil aviation to permit overflights of the Tripoli FIR (HLLL) at altitudes at and above FL300, subject to the approval of, and in accordance with the conditions established by, the appropriate authorities of Libya. However, as a result of the significant continuing risk to the safety of U.S. civil aviation operating at altitudes below FL300 in the Tripoli FIR (HLLL), the FAA maintained its prohibition on U.S. civil flight operations in the Tripoli FIR (HLLL) at those altitudes and extended the expiration date of SFAR No. 112, § 91.1603, from March 20, 2019, to March 20, 2021.

IV. Discussion of the Final Rule

Following the publication of the March 20, 2019, final rule, the FAA became concerned about increased hazards to U.S. civil overflights of northwestern Libya at or above FL300 related to the ongoing conflict for control of the capital, Tripoli. LNA forces had begun operations aimed at seizing control of Tripoli, including Tripoli International Airport (HLLT). The GNA, with support of militias, had conducted counterattacks, including tactical airstrikes on LNA forces. The LNA had declared a military zone and was threatening to shoot down aircraft operating in portions of northwestern Libya.

Both GNA and advancing LNA forces had access to advanced man-portable air defense systems (MANPADS) and likely had access to anti-aircraft artillery. These ground-based anti-aircraft weapon systems presented a risk to U.S. civil aviation at altitudes below FL300. However, LNA forces had fighter aircraft capable of intercepting civil aircraft operating at altitudes at and above FL300 in the self-declared military zone in northwestern Libya. While the LNA fighter aircraft threat was likely intended for GNA-associated military aircraft, an inadvertent risk remained for U.S. civil aviation operations at all altitudes in northwestern Libya due to potential miscalculation or misidentification. As a result of this evolving threat, on April 6, 2019, the FAA issued NOTAM KICZ A0012/19, prohibiting U.S. civil flight operations at all altitudes in the territory and airspace of Libya from west of 17 degrees east longitude and north of 29 degrees north latitude.

Subsequently, on October 23, 2019, the FAA issued KICZ NOTAM A0026/19, which prohibited U.S. civil aviation operations in the entire territory and airspace of Libya at all altitudes. The FAA assessed the area of unacceptable inadvertent risk to U.S. civil aviation operations at all altitudes had spread to the entire territory and airspace of Libya due to the geographic expansion of the ongoing conflict between the GNA and the LNA for control over Libya's government, territory, and resources. The conflict featured increased foreign intervention and the employment of advanced weapons systems. Foreign state actors continued to provide material and technical assistance to rival factions, including surface-to-air

Certain Flights in the Tripoli (HLLL) Flight Information Region (FIR) final rule, 82 FR 14433, March 21, 2017.

[2] *Amendment of the Prohibition Against Certain Flights in the Tripoli Flight Information Region (FIR) (HLLL)* final rule, 84 FR 9950, March 19, 2019.

[3] The Tripoli-based ANSP had issued an Aeronautical Information Publication and a NOTAM containing overflight procedures for civil aviation operations in the Tripoli FIR (HLLL). The ANSP in Benghazi provides air navigation services in the eastern part of the country.

[4] *Amendment of the Prohibition Against Certain Flights in the Tripoli Flight Information Region (FIR) (HLLL)* final rule, 84 FR at 9952–9953, March 19, 2019.

missile (SAM) systems, UAS, and jamming equipment.

In addition, since mid-2019, each side had conducted air strikes targeting military airfields co-located with international civil airports. These attacks utilized both tactical combat aircraft and, increasingly, long-range UAS. Foreign-operated armed UAS had conducted multiple strikes on competing airports or airbases, resulting in the destruction of multiple parked aircraft, including civil transport aircraft. The FAA was concerned these strikes could lead to an increased air defense posture, including advanced SAM capabilities, to protect airport or airbase operations or fielded forces, which would pose an inadvertent risk to U.S. civil aviation. During 2019, the increased air strikes prompted GNA- and LNA-aligned forces to increase force protection measures, such as jamming, air strikes, and the deployment of SAM systems capable of reaching as high as 49,000 feet. Each side had employed anti-aircraft weapons to defend against air strikes. In September 2019, the LNA reportedly shot down a foreign-operated UAS during an attempted attack on the airbase at Jufra. In addition to foreign-operated air defense capabilities, both GNA and LNA forces had, and continue to have, access to advanced MANPADS, some of which have a maximum altitude of 25,000 feet; anti-aircraft artillery; and possible training, technical, and material support from international partners.

In addition, more advanced, higher-altitude air defense systems were reportedly in Libya. As of mid-June 2019, a Pantsir S–1 (SA–22) SAM system was reportedly deployed to defend Jufra. The SA–22 has an effective range of 20 kilometers (10.8 nautical miles) and a maximum altitude of 15,000 meters (49,000 feet). The FAA was concerned the SA–22 could be relocated in response to the dynamic threat environment, and could be repositioned to defend the base at Al Khadim, Libya, with little or no warning. Al Khadim was located outside the area of northwestern Libya where the FAA had previously prohibited U.S. civil flight operations at all altitudes.

In addition, air strikes had prompted LNA-aligned forces to redeploy long-range UAS and SAMs to locations outside the area of northwestern Libya where they had previously been located. The relocation of these SAMs presented an inadvertent risk to U.S. civil aviation at altitudes above FL300 in the territory and airspace of Libya. The FAA also was concerned that GNA-and LNA-aligned forces might expand their use of UAS air strikes to attack opposition aircraft at airbases that are usually co-located with international civil airports, presenting a risk to civil aircraft operating at or near such airports.

While the anti-aircraft capabilities and jamming were likely intended to defend against military aircraft, an inadvertent risk remained for U.S. civil aviation operations at all altitudes in the territory and airspace of Libya due to potential miscalculation or misidentification and the mobility of some of the advanced weapons systems involved. Increased foreign involvement had resulted in an unacceptable inadvertent risk to U.S. civil aviation operations in the territory and airspace of Libya due to command and control and airspace de-confliction challenges, increased lethality of UAS operations, and the introduction of more advanced, higher-altitude anti-aircraft systems. Due to these hazards, NOTAM KICZ A0026/19 prohibited U.S. civil flight operations at all altitudes in the territory and airspace of Libya.

Since the issuance of NOTAM KICZ A0026/19, the risks to U.S. civil aviation operations in the territory and airspace of Libya have further increased due to increased foreign intervention. Clashes continue for control of the capital, Tripoli, which the LNA has attempted to capture since early 2019, and these attacks have increasingly targeted aviation. The escalation has resulted in further expansion of foreign sponsorship of, and intervention in support of, both the LNA and GNA. This support involves third party forces, as well as deployment of advanced weapons, including advanced fighter aircraft, weaponized UAS, SAM systems, and, likely, jammers. Both sides have conducted air strikes, utilizing tactical combat aircraft and long-range, armed UAS to target airport infrastructure and aircraft on the ground at airports. In May 2020, Russia deployed multiple fighter aircraft to Libya to provide close air support to its private military contractors and the LNA and protect their operations from attacks by manned aircraft and weaponized UAS. The foreign states supporting the LNA and GNA also have deployed anti-aircraft weapons and self-protection jamming systems to mitigate the air threat. The combination of these activities poses airspace de-confliction concerns and an inadvertent risk of in-flight engagement of civil aircraft as a result of possible misidentification or miscalculation.

Since November 2019, there have been several GNA UAS shot down near Tripoli's Mitiga International Airport (HLLM), and one LNA UAS and one LNA MiG–23 shot down near Tripoli. The most recent of those reported shoot downs occurred on January 28, 2020, when GNA forces claimed to have downed a UAS operating near Misrata. As a result of weapons activity posing a potential threat to civil aviation, the GNA closed Mitiga International Airport (HLLM) on multiple occasions during January and February 2020. In addition, LNA leader General Haftar announced on January 23, 2020, that LNA forces would engage any military or civil aircraft operating from Mitiga International Airport (HLLM).

The two sides' failure to reach a ceasefire agreement, combined with the recent spate of aircraft shoot downs and the potential for additional deployments of advanced weapons capabilities, present a further increasing risk to civil aviation operations in the territory and airspace of Libya at all altitudes. Additional airstrikes targeting Libyan airports, and the associated air defense reactions, could increase, posing a risk to civil aircraft on the ground and in flight. The GNA and LNA possess anti-aircraft artillery and MANPADS, some of which have a maximum altitude of up to 25,000 feet (7,620 meters).

However, more advanced, higher-altitude air defense systems have been deployed to Libya. In addition to the SA–22 deployment previously described, a foreign sponsor associated with the GNA reportedly deployed multiple variants of anti-aircraft weapons to provide a layered air defense in Tripoli. This deployment included a medium range I-Hawk SAM and a Korkut 35mm air defense gun. In addition, both the GNA and LNA may augment their air defense operations with increased Global Positioning System (GPS) and radio frequency jamming. The FAA assesses that the escalating fighting, increased foreign intervention, and deployment of additional air defense capabilities present an increasing risk to U.S. civil aviation operations in the territory and airspace of Libya at all altitudes. For these reasons, this final rule incorporates the flight prohibition on U.S civil aviation operation in the territory and airspace of Libya at all altitudes, contained in NOTAM KICZ A0026/19, into SFAR No. 112, § 91.1603.

In addition, the FAA assesses that the hazards to the safety of U.S. civil aviation operations at altitudes below FL 300 described in the preamble to the March 2019 final rule remain of concern in those portions of the Tripoli FIR (HLLL) that are outside the territory and

airspace of Libya.[5] The FAA also notes that foreign military manned and unmanned tactical aircraft may operate or approach targets from off the northern coast, presenting airspace deconfliction challenges at altitudes below FL300. Additionally, there is the potential for GPS interference bleed over that may impact flights operating over the southern Mediterranean Sea in the Tripoli FIR (HLLL). For these reasons, this rule also continues the prohibition against all flights by U.S. civil operators and airmen at altitudes below FL300 in those portions of the Tripoli FIR (HLLL) outside the territory and airspace of Libya.

For all of the reasons described in this preamble, the FAA also extends the expiration date of SFAR No. 112, § 91.1603, until March 20, 2023. The FAA will continue to actively monitor the situation and evaluate the extent to which U.S. civil operators and airmen might be able to operate safely in the territory and airspace of Libya and the Tripoli FIR (HLLL). Amendments to SFAR No. 112, § 91.1603, could be appropriate if the risk to aviation safety and security changes. The FAA may amend or rescind SFAR No. 112, § 91.1603, as necessary, prior to its expiration date.

By this action, the FAA also republishes the details concerning the approval and exemption processes in Sections V and VI of this preamble, consistent with other recently published flight prohibition SFARs, to enable interested persons to refer to this final rule for comprehensive information about requesting relief from the FAA from the provisions of SFAR No. 112, § 91.1603. The FAA also makes minor administrative revisions to the approval process and SFAR No. 112, § 91.1603, in this final rule.

V. Approval Process Based on a Request From a Department, Agency, or Instrumentality of the United States Government

A. Approval Process Based on an Authorization Request From a Department, Agency, or Instrumentality of the United States Government

In some instances, U.S. government departments, agencies, or instrumentalities may need to engage U.S. civil aviation to support their activities in the territory and airspace of Libya or in the rest of the Tripoli FIR (HLLL). If a department, agency, or instrumentality of the U.S. Government determines that it has a critical need to engage any person described in SFAR No. 112, § 91.1603, including a U.S. air carrier or commercial operator, to conduct a charter to transport civilian or military passengers or cargo or other operations, at all altitudes in the territory and airspace of Libya or at altitudes below FL300 in those portions of the Tripoli FIR (HLLL) outside the territory and airspace of Libya, that department, agency, or instrumentality may request the FAA to approve persons described in SFAR No. 112, § 91.1603, to conduct such operations.

An approval request must be made directly by the requesting department, agency, or instrumentality of the U.S. Government to the FAA's Associate Administrator for Aviation Safety in a letter signed by an appropriate senior official of the requesting department, agency, or instrumentality. The FAA will not accept or consider requests for approval from anyone other than the requesting department, agency, or instrumentality. In addition, the senior official signing the letter requesting FAA approval on behalf of the requesting department, agency, or instrumentality must be sufficiently positioned within the organization to demonstrate that the senior leadership of the requesting department, agency, or instrumentality supports the request for approval and is committed to taking all necessary steps to minimize operational risks to the proposed flights. The senior official must also be in a position to: (1) Attest to the accuracy of all representations made to the FAA in the request for approval and (2) ensure that any support from the requesting U.S. Government department, agency, or instrumentality described in the request for approval is in fact brought to bear and is maintained over time. Unless justified by exigent circumstances, requests for approval must be submitted to the FAA no less than 30 calendar days before the date on which the requesting department, agency, or instrumentality wishes the proposed operation(s) to commence.

The letter must be sent to the Associate Administrator for Aviation Safety, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591. Electronic submissions are acceptable, and the requesting entity may request that the FAA notify it electronically as to whether the approval request is granted. If a requestor wishes to make an electronic submission to the FAA, the requestor should contact the Air Transportation Division, Flight Standards Service, at (202) 267–8166, to obtain the appropriate email address. A single letter may request approval from the FAA for multiple persons described in SFAR No. 112, § 91.1603, or for multiple flight operations. To the extent known, the letter must identify the person(s) expected to be covered under the SFAR on whose behalf the U.S. Government department, agency, or instrumentality is seeking FAA approval, and it must describe—

- The proposed operation(s), including the nature of the mission being supported;
- The service to be provided by the person(s) covered by the SFAR;
- To the extent known, the specific locations in the territory and airspace of Libya at all altitudes, and in those portions of the Tripoli FIR (HLLL) outside the territory and airspace of Libya at altitudes below FL300, where the proposed operation(s) will be conducted, including, but not limited to, the flight path and altitude of the aircraft while it is operating in those areas and the airports, airfields, or landing zones at which the aircraft will take off and land; and
- The method by which the department, agency, or instrumentality will provide, or how the operator will otherwise obtain, current threat information and an explanation of how the operator will integrate this information into all phases of the proposed operations (*i.e.,* the pre-mission planning and briefing, in-flight, and post-flight phases).

The request for approval must also include a list of operators with whom the U.S. Government department, agency, or instrumentality requesting FAA approval has a current contract(s), grant(s), or cooperative agreement(s) (or its prime contractor has a subcontract(s)) for specific flight operations in the territory and airspace of Libya at any altitude or in those portions of the Tripoli FIR (HLLL) outside the territory and airspace of Libya at altitudes below FL300. The requestor may identify additional operators to the FAA at any time after the FAA approval is issued. Both the operators listed in the original request and any operators that the requestor subsequently seeks to add to the approval must be identified to the FAA and obtain an Operations Specification (OpSpec) or Letter of Authorization (LOA) from the FAA, as appropriate, for operations in the territory and airspace of Libya at any altitude or in those portions of the Tripoli FIR (HLLL) outside the territory and airspace of Libya at altitudes below FL300, as applicable, before such operators commence operations. The approval conditions discussed below apply to all operators, whether included in the original list or subsequently added to

[5] *Id.*

the approval. Updated lists should be sent to the email address to be obtained from the Air Transportation Division by calling (202) 267–8166.

If an approval request includes classified information, requestors may contact Aviation Safety Inspector Dale E. Roberts for instructions on submitting it to the FAA. His contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

FAA approval of an operation under SFAR No. 112, § 91.1603, does not relieve persons subject to this SFAR of their responsibility to comply with all other applicable FAA rules and regulations. Operators of civil aircraft must comply with the conditions of their certificate, OpSpecs, and LOAs, as applicable. Operators must also comply with all rules and regulations of other U.S. Government departments or agencies that may apply to the proposed operation(s), including, but not limited to, regulations issued by the Transportation Security Administration.

B. Approval Conditions

If the FAA approves the request, the FAA's Aviation Safety Organization will send an approval letter to the requesting department, agency, or instrumentality informing it that the FAA's approval is subject to all of the following conditions:

(1) The approval will stipulate those procedures and conditions that limit, to the greatest degree possible, the risk to the operator, while still allowing the operator to achieve its operational objectives.

(2) Before any approval takes effect, the operator must submit to the FAA:

(a) A written release of the U.S. Government from all damages, claims, and liabilities, including without limitation legal fees and expenses, relating to any event arising out of or related to the approved operations in the territory and airspace of Libya at all altitudes and in those portions of the Tripoli FIR (HLLL) outside the territory and airspace of Libya at altitudes below FL300; and

(b) The operator's written agreement to indemnify the U.S. Government with respect to any and all third-party damages, claims, and liabilities, including without limitation legal fees and expenses, relating to any event arising from or related to the approved operations at all altitudes in the territory and airspace of Libya and in those portions of the Tripoli FIR (HLLL) outside the territory and airspace of Libya at altitudes below FL300.

(3) Other conditions that the FAA may specify, including those that may be imposed in OpSpecs or LOAs, as applicable.

The release and agreement to indemnify do not preclude an operator from raising a claim under an applicable non-premium war risk insurance policy issued by the FAA under chapter 443 of title 49, U.S. Code.

If the FAA approves the proposed operation(s), the FAA will issue an OpSpec or a LOA, as applicable, to the operator(s) identified in the original request authorizing them to conduct the approved operation(s), and will notify the department, agency, or instrumentality that requested the FAA approval of any additional conditions beyond those contained in the approval letter.

VI. Information Regarding Petitions for Exemption

Any operations not conducted under an approval the FAA issues through the approval process set forth previously must be conducted under an exemption from SFAR No. 112, § 91.1603. A petition for exemption must comply with 14 CFR part 11. The FAA will consider whether exceptional circumstances exist beyond those contemplated by the approval process described in the previous section. In addition to the information required by 14 CFR 11.81, at a minimum, the requestor must describe in its submission to the FAA—

- The proposed operation(s), including the nature of the operation;
- The service to be provided by the person(s) covered by the SFAR;
- The specific locations in the territory and airspace of Libya at all altitudes, and in those portions of the Tripoli FIR (HLLL) outside the territory and airspace of Libya at altitudes below FL300, where the proposed operation(s) will be conducted, including, but not limited to, the flight path and altitude of the aircraft while it is operating in those areas and the airports, airfields, or landing zones at which the aircraft will take off and land;
- The method by which the operator will obtain current threat information and an explanation of how the operator will integrate this information into all phases of its proposed operations (*i.e.,* the pre-mission planning and briefing, in-flight, and post-flight phases); and
- The plans and procedures that the operator will use to minimize the risks, identified in this preamble, to the proposed operations, to establish that granting the exemption would not adversely affect safety or would provide a level of safety at least equal to that provided by this SFAR. *Note:* The FAA has found comprehensive, organized plans and procedures to be helpful in facilitating the agency's safety evaluation of petitions for exemption from flight prohibition SFARs.

Additionally, the release and agreement to indemnify, as referred to previously, are required as a condition of any exemption that may be issued under SFAR No. 112, § 91.1603.

The FAA recognizes that the operations SFAR No. 112, § 91.1603, might affect could include operations planned for the governments of other countries with the support of the U.S. Government. While the FAA will not permit these operations through the approval process, the FAA will consider exemption requests for such operations on an expedited basis and prior to other exemption requests.

If a petition for exemption includes security-sensitive or proprietary information, requestors may contact Aviation Safety Inspector Dale E. Roberts for instructions on submitting it to the FAA. His contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

VII. Regulatory Notices and Analyses

Changes to Federal regulations must undergo several economic analyses. First, Executive Orders 12866 and 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as codified in 5 U.S.C. 603 *et seq.,* requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act of 1979 (Pub. L. 96–39), as codified in 19 U.S.C. Chapter 13, prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Agreements Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as codified in 2 U.S.C. Chapter 25, requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

In conducting these analyses, the FAA has determined that this final rule has benefits that justify its costs. This rule is a significant regulatory action, as defined in section 3(f) of Executive Order 12866, as it raises novel policy issues contemplated under that Executive Order. As notice and comment under 5 U.S.C. 553 are not required for this final rule, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604 regarding impacts on small entities are not required. This rule will not create unnecessary obstacles to the foreign commerce of the United States. This rule will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector, by exceeding the threshold identified previously.

A. Regulatory Evaluation

This action amends, with modifications to reflect changed security conditions in Libya and the associated risks to U.S. civil aviation safety, the SFAR prohibiting certain flight operations in the Tripoli FIR (HLLL). This action prohibits U.S. civil flight operations in the territory and airspace of Libya at all altitudes, incorporating the flight prohibition contained in NOTAM KICZ A0026/19 into the SFAR, as a result of the significant hazards to U.S. civil aviation detailed in the preamble of this final rule. This action also extends the expiration date of the SFAR for an additional two years and continues the prohibition against all U.S. civil flights at altitudes below FL300 in those portions of the Tripoli FIR (HLLL) outside the territory and airspace of Libya. As a result of this rule, U.S. civil operators and airmen may only operate in the Tripoli FIR (HLLL) if they remain outside the territory and airspace of Libya and at altitudes at or above FL300, unless they have received an exemption or approval from the FAA.

Consequently, U.S. operators have the option to continue using several airways connecting western Africa with the Middle East, provided that they operate at altitudes at or above FL300 in the Tripoli FIR (HLLL) and remain outside of Libyan territorial airspace. In addition, U.S. Government departments, agencies, and instrumentalities may take advantage of the approval process on behalf of U.S. operators and airmen with whom they have a contract, grant, or cooperative agreement, or with whom their prime contractor has a subcontract. U.S. operators and airmen who do not have any of the foregoing types of arrangements with the U.S. Government may petition for exemption from this rule.

The FAA acknowledges the expanded flight prohibition in NOTAM KICZ A0026/19, which this final rule incorporates into SFAR No. 112, § 91.1603, may result in additional costs to some U.S. operators, such as increased fuel costs and other operational-related costs. However, the FAA expects the costs of this action are exceeded by the benefits of avoided risks of fatalities, injuries, and property damage that could result from a U.S. operator's aircraft being shot down (or otherwise damaged) while operating in the territory and airspace of Libya at all altitudes or in those portions of the Tripoli FIR (HLLL) outside the territory and airspace of Libya at altitudes below FL300. The FAA will continue to monitor and evaluate the risks to U.S. civil operators and airmen as a result of security conditions in the territory and airspace of Libya, as well as in the rest of the Tripoli FIR (HLLL).

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), in 5 U.S.C. 603, requires an agency to prepare an initial regulatory flexibility analysis describing impacts on small entities whenever an agency is required by 5 U.S.C. 553, or any other law, to publish a general notice of proposed rulemaking for any proposed rule. Similarly, 5 U.S.C. 604 requires an agency to prepare a final regulatory flexibility analysis when an agency issues a final rule under 5 U.S.C. 553, after being required by that section or any other law to publish a general notice of proposed rulemaking. The FAA found good cause exists to forgo notice and comment and any delay in the effective date for this rule. As notice and comment under 5 U.S.C. 553 are not required in this situation, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604 are similarly not required.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to this Act, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of this final rule and determined that its purpose is to protect the safety of U.S. civil aviation from risks to aircraft operations in the Tripoli FIR (HLLL), a location outside the U.S. Therefore, this final rule complies with the Trade Agreements Act of 1979.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $155 million in lieu of $100 million.

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined there is no new requirement for information collection associated with this final rule.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, the FAA's policy is to conform to ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has determined there are no ICAO Standards and Recommended Practices that correspond to this regulation.

The FAA finds that this action is fully consistent with the obligations under 49 U.S.C. 40105(b)(1)(A) to ensure that the FAA exercises its duties consistently with the obligations of the United States under international agreements.

While the FAA's flight prohibition does not apply to foreign air carriers, DOT codeshare authorizations prohibit foreign air carriers from carrying a U.S. codeshare partner's code on a flight segment that operates in airspace for which the FAA has issued a flight prohibition for U.S. civil aviation. In addition, foreign air carriers and other foreign operators may choose to avoid, or be advised or directed by their civil

aviation authorities to avoid, airspace for which the FAA has issued a flight prohibition for U.S. civil aviation.

G. Environmental Analysis

The FAA has analyzed this action under Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, and DOT Order 5610.1C, Paragraph 16. Executive Order 12114 requires the FAA to be informed of environmental considerations and take those considerations into account when making decisions on major Federal actions that could have environmental impacts anywhere beyond the borders of the United States. The FAA has determined this action is exempt pursuant to Section 2–5(a)(i) of Executive Order 12114, because it does not have the potential for a significant effect on the environment outside the United States.

In accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 8–6(c), FAA has prepared a memorandum for the record stating the reason(s) for this determination and has placed it in the docket for this rulemaking.

VIII. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. The agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

D. Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

This rule is not subject to the requirements of Executive Order 13771 because it is issued with respect to a national security function of the United States.

IX. Additional Information

A. Availability of Rulemaking Documents

An electronic copy of a rulemaking document may be obtained from the internet by—

- Searching the Federal Document Management System (FDMS) Portal at *http://www.regulations.gov;*
- Visiting the FAA's Regulations and Policies web page at *http://www.faa.gov/regulations_policies;* or
- Accessing the Government Publishing Office's website at *http://www.govinfo.gov.*

Copies may also be obtained by sending a request (identified by amendment or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677.

Except for classified material, all documents the FAA considered in developing this rule, including economic analyses and technical reports, may be accessed from the internet through the Federal Document Management System Portal referenced previously.

B. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121) (set forth as a note to 5 U.S.C. 601) requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the persons listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight, Libya.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations, part 91, as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

■ 2. Revise § 91.1603 to read as follows:

§ 91.1603 Special Federal Aviation Regulation No. 112—Prohibition Against Certain Flights in the Tripoli Flight Information Region (FIR) (HLLL).

(a) *Applicability.* This Special Federal Aviation Regulation (SFAR) applies to the following persons:

(1) All U.S. air carriers and U.S. commercial operators;

(2) All persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and

(3) All operators of U.S.-registered civil aircraft, except when the operator of such aircraft is a foreign air carrier.

(b) *Flight prohibition.* Except as provided in paragraphs (c) and (d) of this section, no person described in paragraph (a) of this section may conduct flight operations in the following specified areas:

(1) The territory and airspace of Libya.

(2) Any portion of the Tripoli FIR (HLLL) that is outside the territory and airspace of Libya at altitudes below Flight Level (FL) 300.

(c) *Permitted operations.* This section does not prohibit persons described in paragraph (a) of this section from conducting the following flight operations in the Tripoli FIR (HLLL):

(1) Overflights of those portions of the Tripoli FIR (HLLL) that are outside the territory and airspace of Libya that occur at altitudes at or above Flight Level (FL) 300; or

(2) Flight operations in the Tripoli FIR (HLLL) that are conducted under a contract, grant, or cooperative agreement with a department, agency, or instrumentality of the U.S. Government

(or under a subcontract between the prime contractor of the department, agency, or instrumentality and the person described in paragraph (a) of this section), with the approval of the FAA, or under an exemption issued by the FAA. The FAA will consider requests for approval or exemption in a timely manner, with the order of preference being: First, for those operations in support of U.S. Government-sponsored activities; second, for those operations in support of government-sponsored activities of a foreign country with the support of a U.S. Government department, agency, or instrumentality; and third, for all other operations.

(d) *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from this section to the extent required by that emergency. Except for U.S. air carriers and commercial operators that are subject to the requirements of 14 CFR part 119, 121, 125, or 135, each person who deviates from this section must, within 10 days of the deviation, excluding Saturdays, Sundays, and Federal holidays, submit to the responsible Flight Standards Office a complete report of the operations of the aircraft involved in the deviation, including a description of the deviation and the reasons for it.

(e) *Expiration.* This Special Federal Aviation Regulation (SFAR) will remain in effect until March 20, 2023. The FAA may amend, rescind, or extend this SFAR, as necessary.

Issued in Washington, DC, under the authority of 49 U.S.C. 106(f) and (g), 40101(d)(1), 40105(b)(1)(A), and 44701(a)(5), on July 1, 2020.

Daniel K. Elwell,

Deputy Administrator.

[FR Doc. 2020–14721 Filed 7–24–20; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 232

[Release Nos. 33–10771A; 34–88606A; IC–33836A; File No. S7–03–19]

RIN 3235–AM31

Securities Offering Reform for Closed-End Investment Companies; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; correction.

SUMMARY: This document makes technical corrections to amendments to rules that modify the registration, communications, and offering processes for business development companies (''BDCs'') and other closed-end investment companies adopted in Release No. 33–10771 (April 8, 2020) (''Adopting Release''), which was published in the **Federal Register** on June 1, 2020.

DATES: Effective August 1, 2020

FOR FURTHER INFORMATION CONTACT: Amy Miller, Senior Counsel, Investment Company Regulation Office, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: We are making technical amendments to correct §§ 230.497 and 232.405. Specifically, this document amends Instructions 25 and 28 published in the Adopting Release. Instruction 25.a is amended to correct a citation to Form N–2; and Instruction 25.b is removed, with subsequent instructions renumbered accordingly. Instruction 28.b is removed, with subsequent instructions renumbered accordingly; newly-designated Instruction b is amended to correct an unneeded direction to remove a heading; and newly-redesignated Instruction 28.d is amended to redesignate Note 2 to rule 405 of Regulation S–T as Note 1 to rule 405 of Regulation S–T.

■ In FR doc. 2020–07790, which published in the **Federal Register** on Monday, June 1, 2020, at 85 FR 33290, the following corrections are made:

§ 230.497 [Corrected]

1. On page 33356, in the third column, under ''§ 230.497'' in Instruction 25.a, ''Remove from paragraphs (c) and (e) the text ''Form N–2 (§§ 239.14 and 274.11a–1 of this chapter)'' is corrected to read ''Remove from paragraphs (c) and (e) the text ''§§ 239.14 and 274.11a–1 of this chapter (Form N–2)''.

2. On page 33356, in the third column, under ''§ 230.497'' remove Instruction 25.b.

3. On page 33356, in the third column, under ''§ 230.497'' redesignate Instructions 25.c and d as Instructions 25.b and c, respectively.

§ 232.405 [Corrected]

4. On page 33357, in the first column, under ''§ 232.405'' remove Instruction 28.b.

5. On page 33357, in the first and second columns, under ''§ 232.405'' redesignate Instructions 28.c, d, and e, as Instructions 28.b, c, and d, respectively.

6. On page 33357, in the first column, under ''§ 232.405'' in newly-redesignated Instruction 28.b, ''Removing the heading and revising the introductory text of paragraph (b)(1)'' is corrected to read ''Revising the introductory text of paragraph (b)(1)''.

7. On page 33357, in the second column, under ''§ 232.405'' in newly-redesignated Instruction 28.d, ''Redesignating the note to § 232.405 as note 2 to § 232.405 and revising the last sentence of newly redesignated note 2 to § 232.405'' is corrected to read ''Redesignating note 2 to § 232.405 as Note 1 to § 232.405 and revising the last sentence of newly redesignated Note 1 to § 232.405 ''.

8. On page 33357, in the second column, in ''§ 232.405 Interactive Data File Submissions,'' the introductory text ''note 2 to this section'' is corrected to read ''Note 1 to this section''.

9. On page 33358, in the second column, in ''§ 232.405 Interactive Data File Submissions,'' ''Note 2 to § 232.405'' is corrected to read ''Note 1 to § 232.405''.

Dated: July 9, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–15170 Filed 7–24–20; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0953]

RIN 1625–AA09

Drawbridge Operation Regulation; Lacombe Bayou, LA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the Tammany Trace swing bridge across Lacombe Bayou, mile 5.2, at Lacombe, St. Tammany Parish, Louisiana. This bridge will open on signal if at least two hours notice is given. This rule is being changed because there are infrequent requests to open the bridge. This change allows St. Tammany Parish to open the bridge when needed by Tammany Trace park officials.

DATES: This rule is effective August 26, 2020.

ADDRESSES: To view documents mentioned in this preamble as being

available in the docket, go to *https://www.regulations.gov.* Type USCG–2018–0953 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 Mr. Doug Blakemore, Eighth Coast Guard District Bridge Administrator; telephone (504) 671–2128, email *Douglas.A.Blakemore@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
STP St. Tammany Parish
Trace Tammany Trace
U.S.C. United States Code

II. Background Information and Regulatory History

On November 6, 2019 the Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulations; Lacombe Bayou, LA in the **Federal Register** (84 FR 59741), to seek public comments on whether the Coast Guard should consider modifying the current operating schedule to the Tammany Trace drawbridge. We received 0 comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

St. Tammany Parish (STP) requested to change the operating requirements for the Tammany Trace swing bridge across Lacombe Bayou, mile 5.2, at Lacombe, St. Tammany Parish, Louisiana. This bridge currently opens on signal according to 33 CFR part 117.5. STP requested to open the bridge if vessels provide 2 hours advance notification.

This bridge spans the Tammany Trace which is a park area that is used by pedestrians and bicyclists. The park is open from 7 a.m. to 7:30 p.m. daily. The bridge operates during park hours and is secured in the open to navigation position when the park is closed. This bridge has a vertical clearance of 9.7 feet above mean high water in the closed to vessel position and unlimited vertical clearance in the open to vessel traffic position. This waterway is primarily used by recreational boaters in the Lacombe area and does not support commercial activity. The STP bridge operators also perform park official activities including bike, pedestrian and equestrian operations and maintenance. There are few vessel movements through this bridge. From 2015 through 2017 the bridge opened 197 times for vessel passage. This equates to less than 3 bridge openings per month.

This change allows the parish to coordinate and schedule Tammany Trace requirements and provide for the reasonable needs of navigation.

IV. Discussion of Comments, Changes and the Final Rule

There were no comments on this rule change. The Coast Guard provided a comment period of 30 days. Based on the infrequent number of times that this bridge has opened for vessel traffic over 3 years this rule provides vessels with a reasonable ability to use the waterway. We identified no impacts on marine navigation with this proposed rule.

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 lack of commercial vessel traffic on this waterway, and the recreational boats that routinely transit the bridge under the proposed schedule. Those vessels with a vertical clearance requirement of less than 9.7 feet above mean high water may transit the bridge at any time, and the bridge will open in case of emergency at any time. This regulatory action takes into account the reasonable needs of vessel and vehicular traffic.

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 0 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 s categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 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; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.463 to read as follows

§ 117.463 Lacombe Bayou

(a) The draw of the US190 bridge, mile 6.8 at Lacombe, shall open on signal if at least 48 hours notice is given.

(b) The draw of the Tammany Trace bridge, mile 5.2 at Lacombe, shall open on signal if at least 2 hours notice is given.

Dated: July 16, 2020.

John P. Nadeau,

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

[FR Doc. 2020–16012 Filed 7–24–20; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2018–0839; FRL–10007–92–Region 5]

Air Plan Approval; Minnesota; Revision to the Minnesota State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Minnesota State Implementation Plan (SIP) which updates Minnesota's air program rules. The Minnesota Pollution Control Agency (MPCA) submitted the request to EPA on November 14, 2018. The revision to Minnesota's air quality rules reflects changes that have been made to the State's air program rules since August 10, 2011, and updates on actions deferred from previous SIP submittals. EPA is approving the majority of MPCA's submittal, which will result in consistent requirements of rules at both the State and Federal level. EPA proposed to approve this action on February 5, 2020 and received no adverse comments.

DATES: This final rule is effective on August 26, 2020.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2018–0839. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* 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 through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID 19. We recommend that you telephone Emily Crispell, Environmental Scientist, at (312) 353–8512 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Emily Crispell, Environmental Scientist, Control Strategies, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8512, *crispell.emily@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

I. Background Information

On February 5, 2020, EPA proposed to approve a revision to the Minnesota SIP, which included amendments to rules governing air emission permits, the removal of regulations unnecessary for Minnesota to attain and maintain the National Ambient Air Quality Standards, and the addition of new and previously deferred air program rules. 85 FR 6482. The notice of proposed rulemaking provided an explanation of the Clean Air Act (CAA) requirements, a detailed analysis of the revisions, and EPA's reasons for proposing approval. This action will not restate that information. The public comment period for this proposed rule ended on March 6, 2020.

During the comment period, EPA received only one comment. This comment, sent from an anonymous commenter, consists solely of quotes from the 2007 animated film *Bee Movie.* The comment is included in the docket for this action.

We do not consider this comment to be germane or relevant to this action and therefore not adverse to this action. The comment lacks the required specificity to the proposed SIP revision and the relevant requirements of CAA section 110. Moreover, the comment does not address a specific regulation or provision in question, nor recommends a different action on the SIP submission from what EPA proposed. Therefore, we are finalizing our action as proposed.

II. Final Action

A. Regulations Approved and Incorporated by Reference Into the SIP

EPA is approving and incorporating by reference into the Minnesota SIP at 40 CFR 52.1220(c)—the following rule sections (adoption date):

- Chapter 7000 Procedural Rules
  7000.0300 (04/12/2004), 7000.5000 (04/12/2004)
- Chapter 7002 Permit Fees
  7002.0005 (12/19/2016), 7002.0015 (08/05/1996)
- Chapter 7005 Definitions and Abbreviations
  7005.0100 (12/19/2016), 7005.0110 (11/29/1993)
- Chapter 7007 Air Emission Permits
  7007.0050 (12/24/2012), 7007.0100 (12/19/2016) [All except for paragraphs 9b through 9f, 12c, 24a and 24b], 7007.0250 (12/19/2016), 7007.0300 (12/19/2016), 7007.0350 (12/19/2016), 7007.0400 (12/12/2012), 7007.0450 (10/11/1993), 7007.0550 (10/11/1993), 7007.0600 (12/19/2016), 7007.0650 (12/19/2016), 7007.0700 (12/19/2016), 7007.0750 (12/19/2016) [Subparts 1–7 only], 7007.0800 (12/19/2016), 7007.0850 (12/12/1994), 7007.0900 (10/11/1993), 7007.0950 (12/19/2016), 7007.1000 (12/19/2016), 7007.1050 (12/24/2012), 7007.1100 (12/19/2016), 7007.1110 (12/24/2012), 7007.1115 (12/24/2012), 7007.1120 (12/24/2012), 7007.1125 (12/24/2012), 7007.1130 (12/24/2012), 7007.1140 (12/24/2012), 7007.1141 (12/24/2012), 7007.1142 (12/19/2016), 7007.1143 (11/29/2004), 7007.1144 (11/29/2004), 7007.1145 (12/24/2012), 7007.1146 (12/24/2012), 7007.1147 (11/29/2004), 7007.1148 (11/29/2004), 7007.1150 (12/19/2016), 7007.1200 (11/12/2007), 7007.1250 (12/19/2016), 7007.1300 (12/19/2016), 7007.1350 (12/19/2016), 7007.1400 (12/19/2016), 7007.1450 (12/24/2012), 7007.1500 (12/19/2016), 7007.1600 (12/19/2016), 7007.1650 (10/11/1993), 7007.1700 (10/11/1993), 7007.1750 (10/11/1993), 7007.1800 (10/11/1993), 7007.1850 (12/24/2012), 7007.3000 (11/19/2007), 7007.4000 (08/23/1993), 7007.4010 (05/24/2004), 7007.4020 (06/01/1999), 7007.4030 (08/23/1993), 7007.5000 (11/19/2007)
- Chapter 7008 Conditionally Exempt Stationary Sources and Conditionally Insignificant Activities
  7008.0050 (04/23/2003), 7008.0100 (12/19/2020), 7008.0200 (04/21/2003), 7008.0300 (04/21/2003), 7008.2000 (04/21/2003), 7008.2100 (04/21/2003), 7008.2200 (04/21/2003), 7008.2250 (04/21/2003), 7008.4000 (12/19/2016), 7008.4100 (12/19/2016), 7008.4110 (12/19/2016)
- Chapter 7009 Ambient Air Quality Standards
  7009.0010 (12/19/2016), 7009.0020 (12/19/2016), 7009.0050 (06/01/1999), 7009.0090 (12/19/2016), 7009.1000 (03/18/1996), 7009.1010 (08/23/1993), 7009.1020 (08/23/1993), 7009.1030 (08/23/1993), 7009.1040 (01/12/1998), 7009.1050 (08/23/1993), 7009.1060 (12/19/2016), 7009.1070 (08/23/1993), 7009.1080 (08/23/1993), 7009.1090 (08/23/1993), 7009.1100 (08/23/1993), 7009.1110 (08/23/1993), 7009.9000 (11/13/1995)
- Chapter 7011 Standards for Stationary Sources
  7011.0010 (06/01/1999), 7011.0020 (08/23/1993), 7011.0060 (11/19/2007), 7011.0061 (11/19/2007), 7011.0065 (12/19/2016), 7011.0070 (12/19/2016), 7011.0072 (11/19/2007), 7011.0075 (11/19/2007), 7011.0080 (12/19/2016), 7011.0100 (08/23/1993), 7011.0105 (06/13/1998), 7011.0110 (01/12/1998), 7011.0115 (11/29/1993), 7011.0150 (03/18/1996), 7011.0500 (08/23/1993), 7011.0505 (08/23/1993), 7011.0510 (12/19/2016), 7011.0515 (12/19/2016), 7011.0520 (08/23/1993), 7011.0525 (08/23/1993), 7011.0530 (12/19/2016), 7011.0535 (12/19/2016), 7011.0540 (08/23/1993), 7011.0545 (08/23/1993), 7011.0550 (08/23/1993), 7011.0551 (09/22/2014), 7011.0553 (02/06/1995), 7011.0600 (08/23/1993), 7011.0605 (08/23/1993), 7011.0610 (12/19/2016), 7011.0615 (12/19/2016), 7011.0620 (12/19/2016), 7011.0625 (09/22/2014), 7011.0700 (08/23/1993), 7011.0705 (08/23/1993), 7011.0710 (12/19/2016), 7011.0715 (12/19/2016), 7011.0720 (12/19/2016), 7011.0730 (11/19/2007), 7011.0735 (08/23/1993), 7011.0850 (04/21/2003), 7011.0852 (11/23/1998), 7011.0854 (11/23/1998), 7011.0857 (11/23/1998), 7011.0858 (11/23/1998), 7011.0859 (11/23/1998), 7011.0865 (04/21/2003), 7011.0870 (04/21/2003), 7011.0900 (06/01/1999), 7011.0903 (03/04/1996), 7011.0905 (12/19/2016), 7011.0909 (03/04/1996), 7011.0911 (03/04/1996), 7011.0913 (05/24/2004), 7011.0917 (11/29/2004), 7011.0920 (03/04/1996), 7011.0922 (03/04/1996), 7011.1000 (08/23/1993), 7011.1005 (11/19/2007), 7011.1010 (01/12/1998), 7011.1015 (08/23/1993), 7011.1100 (08/23/1993), 7011.1105 (12/19/2016), 7011.1110 (01/12/1998), 7011.1115 (12/19/2016), 7011.1120 (08/23/1993), 7011.1125 (08/23/1993), 7011.1135 (12/19/2016), 7011.1140 (08/23/1993), 7011.1201 (10/11/2011), 7011.1205 (09/22/2014), 7011.1300 (08/23/1993), 7011.1305 (12/19/2016), 7011.1310 (12/19/2016), 7011.1315 (08/23/1993), 7011.1320 (12/19/2016), 7011.1325 (11/29/1993), 7011.1405 (12/19/2016), 7011.1410 (12/19/2016), 7011.1420 (03/01/1999), 7011.1425 (12/19/2016), 7011.1430 (11/29/1993), 7011.1500 (06/01/1999), 7011.1505 (08/23/1993), 7011.1510 (08/23/1993), 7011.1515 (08/23/1993), 7011.1600 (01/12/1998), 7011.1605 (08/23/1993), 7011.1615 (03/01/1999), 7011.1620 (08/23/1993), 7011.1625 (11/29/1993), 7011.1630 (11/29/1993), 7011.1700 (08/23/1993), 7011.1705 (01/12/1998), 7011.1715 (03/01/1999), 7011.1720 (08/23/1993), 7011.1725 (11/29/1993), 7011.2100 (08/23/1993), 7011.2105 (08/23/1993), 7011.2300 (08/23/1993)
- Chapter 7017 Monitoring and Testing Requirements
  7017.0100 (02/21/1995), 7017.0200 (05/24/2004), 7017.1002 (12/19/2016), 7017.1004 (03/01/1999), 7017.1006 (03/01/1999), 7017.1010 (03/01/1999), 7017.1020 (02/06/1995), 7017.1030 (03/01/1999), 7017.1035 (03/01/1999), 7017.1040 (03/01/1999), 7017.1050 (03/01/1999), 7017.1060 (03/01/1999), 7017.1070 (03/01/1999), 7017.1080 (12/19/2016), 7017.1090 (03/01/1999), 7017.1100 (03/01/1999), 7017.1110 (12/19/2016), 7017.1120 (12/19/2016), 7017.1130 (03/01/1999), 7017.1135 (03/01/1999), 7017.1140 (03/01/1999), 7017.1150 (03/01/1999), 7017.1160 (03/01/1999), 7017.1170 (12/19/2016), 7017.1180 (03/01/1999), 7017.1185 (03/01/1999), 7017.1190 (03/01/1999), 7017.1200 (03/01/1999), 7017.1215 (12/19/2016), 7017.1220 (03/01/1999), 7017.2001 (12/19/2016), 7017.2005 (11/19/2007), 7017.2010 (03/04/1996), 7017.2015 (12/19/2016), 7017.2017 (12/19/2016), 7017.2020 (11/19/2007),

7017.2025 (12/19/2016), 7017.2030 (03/01/1999), 7017.2035 (12/19/2016), 7017.2040 (03/18/1996), 7017.2045 (07/13/1998), 7017.2050 (12/19/2016), 7017.2060 (12/19/2016)

- Chapter 7019 Emission Inventory Requirements
  7019.1000 (06/01/1999), 7019.3000 (09/22/2014) [Subparts 1 and 2 only], 7019.3020 (12/19/2016), 7019.3030 (09/22/2014), 7019.3040 (03/01/1999), 7019.3050 (09/22/2014), 7019.3060 (08/05/1996), 7019.3070 (08/05/1996), 7019.3080 (11/19/2007), 7019.3090 (08/05/1996), 7019.3100 (08/05/1996)
- Minnesota Statutes
  116.1100 (1983)

B. Regulations To Remove From the SIP

As discussed in the proposal for this action, we are removing from the SIP rule sections: 7001.0020, 7001.0050, 7001.0140, 7001.0180, 7001.0550, 7001.3050, 7007.1251, 7009.0060, 7009.0070, 7009.0080, 7011.0725, 7017.1210, and 7017.2018.

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Minnesota Regulations described in section II.A. of this preamble and removing the Minnesota Regulations listed in II.B. of this preamble. EPA has made, and will continue to make, the documents listed in II.A. generally available through *www.regulations.gov,* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 25, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 17, 2020.

Kurt Thiede,

Regional Administrator, Region 5.

Accordingly, 40 CFR parts 52 and 81 are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Section 52.1220 is amended by revising the table in paragraph (c) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

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

(c) * * *

TABLE 1 TO PARAGRAPH (C)—EPA-APPROVED MINNESOTA REGULATIONS

Minnesota citation	Title/subject	State adoption date	EPA approval date	Comments
CHAPTER 7000 PROCEDURAL RULES				
7000.0300	DUTY OF CANDOR	04/12/2004	07/27/2020, [insert **Federal Register** citation].	
7000.5000	DECLARATION OF EMERGENCY	04/12/2004	07/27/2020, [insert **Federal Register** citation].	
CHAPTER 7002 PERMIT FEES				
7002.0005	SCOPE	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7002.0015	DEFINITIONS	08/05/1996	07/27/2020, [insert **Federal Register** citation].	
CHAPTER 7005 DEFINITIONS AND ABBREVIATIONS				
7005.0100	DEFINITIONS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7005.0110	ABBREVIATIONS	11/29/1993	07/27/2020, [insert **Federal Register** citation].	
CHAPTER 7007 AIR EMISSION PERMITS				
7007.0050	SCOPE	12/24/2012	07/27/2020, [insert **Federal Register** citation].	
7007.0100	DEFINITIONS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	All except for paragraphs 9b through 9f, 12c, 24a and 24b.
7007.0150	PERMIT REQUIRED	12/27/1994	5/18/1999, 64 FR 26880.	
7007.0200	SOURCES REQUIRED OR ALLOWED TO OBTAIN A PART 70 PERMIT.	12/27/1994	5/18/1999, 64 FR 26880.	
7007.0250	SOURCES REQUIRED TO OBTAIN A STATE PERMIT.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.0300	SOURCES NOT REQUIRED TO OBTAIN A PERMIT.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.0350	EXISTING SOURCE APPLICATION DEADLINES AND SOURCE OPERATION DURING TRANSITION.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.0400	PERMIT REISSUANCE APPLICATIONS AFTER TRANSITION; NEW SOURCE AND PERMIT AMENDMENT APPLICATIONS; APPLICATIONS FOR SOURCES NEWLY SUBJECT TO A PART 70 OR STATE PERMIT REQUIREMENT.	12/12/2012	07/27/2020, [insert **Federal Register** citation].	
7007.0450	PERMIT REISSUANCE APPLICATIONS AND CONTINUATION OF EXPIRING PERMITS.	10/11/1993	07/27/2020, [insert **Federal Register** citation].	
7007.0500	CONTENT OF PERMIT APPLICATION	8/10/1993	5/2/1995, 60 FR 21447.	
7007.0550	CONFIDENTIAL INFORMATION	10/11/1993	07/27/2020, [insert **Federal Register** citation].	
7007.0600	COMPLETE APPLICATION AND SUPPLEMENTAL INFORMATION REQUIREMENTS.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.0650	WHO RECEIVES AN APPLICATION	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.0700	COMPLETENESS REVIEW	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.0750	APPLICATION PRIORITY AND ISSUANCE TIMELINES.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	Subparts 1–7 only.
7007.0800	PERMIT CONTENT	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.0850	PERMIT APPLICATION NOTICE AND COMMENT.	12/12/1994	07/27/2020, [insert **Federal Register** citation].	
7007.0900	REVIEW OF PART 70 PERMITS BY AFFECTED STATES.	10/11/1993	07/27/2020, [insert **Federal Register** citation].	

TABLE 1 TO PARAGRAPH (C)—EPA-APPROVED MINNESOTA REGULATIONS—Continued

Minnesota citation	Title/subject	State adoption date	EPA approval date	Comments
7007.0950	EPA REVIEW AND OBJECTION	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.1000	PERMIT ISSUANCE AND DENIAL	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.1050	DURATION OF PERMITS	12/24/2012	07/27/2020, [insert **Federal Register** citation].	
7007.1100	GENERAL PERMITS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.1110	REGISTRATION PERMIT GENERAL REQUIREMENTS.	12/24/2012	07/27/2020, [insert **Federal Register** citation].	
7007.1115	REGISTRATION PERMIT OPTION A	12/24/2012	07/27/2020, [insert **Federal Register** citation].	
7007.1120	REGISTRATION PERMIT OPTION B	12/24/2012	07/27/2020, [insert **Federal Register** citation].	
7007.1125	REGISTRATION PERMIT OPTION C	12/24/2012	07/27/2020, [insert **Federal Register** citation].	
7007.1130	REGISTRATION PERMIT OPTION D	12/24/2012	07/27/2020, [insert **Federal Register** citation].	
7007.1140	CAPPED PERMIT ELIGIBILITY REQUIREMENTS.	12/24/2012	07/27/2020, [insert **Federal Register** citation].	
7007.1141	CAPPED PERMIT EMISSION THRESHOLDS.	12/24/2012	07/27/2020, [insert **Federal Register** citation].	
7007.1142	CAPPED PERMIT ISSUANCE AND CHANGE OF PERMIT STATUS.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.1143	CAPPED PERMIT GENERAL REQUIREMENTS.	11/29/2004	07/27/2020, [insert **Federal Register** citation].	
7007.1144	CAPPED PERMIT PUBLIC PARTICIPATION.	11/29/2004	07/27/2020, [insert **Federal Register** citation].	
7007.1145	CAPPED PERMIT APPLICATION	12/24/2012	07/27/2020, [insert **Federal Register** citation].	
7007.1146	CAPPED PERMIT COMPLIANCE REQUIREMENTS.	12/24/2012	07/27/2020, [insert **Federal Register** citation].	
7007.1147	CAPPED PERMIT CALCULATION OF ACTUAL EMISSIONS.	11/29/2004	07/27/2020, [insert **Federal Register** citation].	
7007.1148	AMBIENT AIR QUALITY ASSESSMENT	11/29/2004	07/27/2020, [insert **Federal Register** citation].	
7007.1150	WHEN A PERMIT AMENDMENT IS REQUIRED.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.1200	CALCULATING EMISSION CHANGES FOR PERMIT AMENDMENTS.	11/12/2007	07/27/2020, [insert **Federal Register** citation].	
7007.1250	INSIGNIFICANT MODIFICATIONS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.1300	INSIGNIFICANT ACTIVITIES LIST	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.1350	CHANGES WHICH CONTRAVENE CERTAIN PERMIT TERMS.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.1400	ADMINISTRATIVE PERMIT AMENDMENTS.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.1450	MINOR AND MODERATE PERMIT AMENDMENTS.	12/24/2012	07/27/2020, [insert **Federal Register** citation].	
7007.1500	MAJOR PERMIT AMENDMENTS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.1600	PERMIT REOPENING AND AMENDMENT BY AGENCY.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7007.1650	REOPENINGS FOR CAUSE BY EPA	10/11/1993	07/27/2020, [insert **Federal Register** citation].	
7007.1700	PERMIT REVOCATION BY AGENCY	10/11/1993	07/27/2020, [insert **Federal Register** citation].	
7007.1750	FEDERAL ENFORCEABILITY	10/11/1993	07/27/2020, [insert **Federal Register** citation].	
7007.1800	PERMIT SHIELD	10/11/1993	07/27/2020, [insert **Federal Register** citation].	
7007.1850	EMERGENCY PROVISION	12/24/2012	07/27/2020, [insert **Federal Register** citation].	
7007.3000	PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY.	11/19/2007	07/27/2020, [insert **Federal Register** citation].	

TABLE 1 TO PARAGRAPH (C)—EPA-APPROVED MINNESOTA REGULATIONS—Continued

Minnesota citation	Title/subject	State adoption date	EPA approval date	Comments
	OFFSETS			
7007.4000	SCOPE	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7007.4010	DEFINITIONS	05/24/2004	07/27/2020, [insert **Federal Register** citation].	
7007.4020	CONDITIONS FOR PERMIT	06/01/1999	07/27/2020, [insert **Federal Register** citation].	
7007.4030	LIMITATION ON USE OF OFFSETS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7007.5000	BEST AVAILABLE RETROFIT TECHNOLOGY.	11/19/2007	07/27/2020, [insert **Federal Register** citation].	
	CHAPTER 7008 CONDITIONALLY EXEMPT STATIONARY SOURCES AND CONDITIONALLY INSIGNIFICANT ACTIVITIES			
7008.0050	SCOPE	04/23/2003	07/27/2020, [insert **Federal Register** citation].	
7008.0100	DEFINITIONS	12/19/2020	07/27/2020, [insert **Federal Register** citation].	
7008.0200	GENERAL REQUIREMENTS	04/21/2003	07/27/2020, [insert **Federal Register** citation].	
7008.0300	PERMITS	04/21/2003	07/27/2020, [insert **Federal Register** citation].	
7008.2000	CONDITIONALLY EXEMPT STATIONARY SOURCES; ELIGIBILITY.	04/21/2003	07/27/2020, [insert **Federal Register** citation].	
7008.2100	GASOLINE SERVICE STATIONS TECHNICAL STANDARDS.	04/21/2003	07/27/2020, [insert **Federal Register** citation].	
7008.2200	CONCRETE MANUFACTURING TECHNICAL STANDARDS.	04/21/2003	07/27/2020, [insert **Federal Register** citation].	
7008.2250	RECORD KEEPING FOR CONCRETE MANUFACTURING PLANTS.	04/21/2003	07/27/2020, [insert **Federal Register** citation].	
7008.4000	CONDITIONALLY INSIGNIFICANT ACTIVITIES.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7008.4100	CONDITIONALLY INSIGNIFICANT MATERIAL USAGE.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7008.4110	CONDITIONALLY INSIGNIFICANT PM AND PM–10 EMITTING OPERATIONS.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
	CHAPTER 7009 AMBIENT AIR QUALITY STANDARDS			
7009.0010	DEFINITIONS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7009.0020	PROHIBITED EMISSIONS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7009.0050	INTERPRETATION AND MEASUREMENT METHODOLOGY, EXCEPT FOR HYDROGEN SULFIDE.	06/01/1999	07/27/2020, [insert **Federal Register** citation].	
7009.0090	NATIONAL AMBIENT AIR QUALITY STANDARDS.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
	AIR POLLUTION EPISODES			
7009.1000	AIR POLLUTION EPISODES	03/18/1996	07/27/2020, [insert **Federal Register** citation].	
7009.1010	DEFINITIONS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7009.1020	EPISODE LEVELS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7009.1030	EPISODE DECLARATION	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7009.1040	CONTROL ACTIONS	01/12/1998	07/27/2020, [insert **Federal Register** citation].	
7009.1050	EMERGENCY POWERS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7009.1060	TABLE 1	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7009.1070	TABLE 2: EMISSION REDUCTION OBJECTIVES FOR PARTICULATE MATTER.	08/23/1993	07/27/2020, [insert **Federal Register** citation].	

TABLE 1 TO PARAGRAPH (C)—EPA-APPROVED MINNESOTA REGULATIONS—Continued

Minnesota citation	Title/subject	State adoption date	EPA approval date	Comments
7009.1080	TABLE 3: EMISSION OBJECTIVES FOR SULFUR OXIDES.	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7009.1090	TABLE 4: EMISSION REDUCTION OBJECTIVES FOR NITROGEN OXIDES.	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7009.1100	TABLE 5: EMISSION REDUCTION OBJECTIVES FOR HYDROCARBONS.	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7009.1110	TABLE 6: EMISSION REDUCTION OBJECTIVES FOR CARBON MONOXIDE.	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
ADOPTION OF FEDERAL REGULATIONS				
7009.9000	DETERMINING CONFORMITY OF GENERAL FEDERAL ACTIONS TO STATE OR FEDERAL IMPLEMENTATION PLANS.	11/13/1995	07/27/2020, [insert **Federal Register** citation].	
CHAPTER 7011 STANDARDS FOR STATIONARY SOURCES				
7011.0010	APPLICABILITY OF STANDARDS OF PERFORMANCE.	06/01/1999	07/27/2020, [insert **Federal Register** citation].	
7011.0020	CIRCUMVENTION	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
CONTROL EQUIPMENT				
7011.0060	DEFINITIONS	11/19/2007	07/27/2020, [insert **Federal Register** citation].	
7011.0061	INCORPORATION BY REFERENCE	11/19/2007	07/27/2020, [insert **Federal Register** citation].	
7011.0065	APPLICABILITY	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.0070	LISTED CONTROL EQUIPMENT AND CONTROL EQUIPMENT EFFICIENCIES.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.0072	REQUIREMENTS FOR CERTIFIED HOODS.	11/19/2007	07/27/2020, [insert **Federal Register** citation].	
7011.0075	LISTED CONTROL EQUIPMENT GENERAL REQUIREMENTS.	11/19/2007	07/27/2020, [insert **Federal Register** citation].	
7011.0080	MONITORING AND RECORD KEEPING FOR LISTED CONTROL EQUIPMENT.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
EMISSION STANDARDS FOR VISIBLE AIR CONTAMINANTS				
7011.0100	SCOPE	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.0105	VISIBLE EMISSION RESTRICTIONS FOR EXISTING FACILITIES.	06/13/1998	07/27/2020, [insert **Federal Register** citation].	
7011.0110	VISIBLE EMISSION RESTRICTIONS FOR NEW FACILITIES.	01/12/1998	07/27/2020, [insert **Federal Register** citation].	
7011.0115	PERFORMANCE TESTS	11/29/1993	07/27/2020, [insert **Federal Register** citation].	
CONTROLLING FUGITIVE PARTICULATE MATTER				
7011.0150	PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE.	03/18/1996	07/27/2020, [insert **Federal Register** citation].	
INDIRECT HEATING FOSSIL–FUEL–BURNING EQUIPMENT				
7011.0500	DEFINITIONS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.0505	DETERMINATION OF APPLICABLE STANDARDS OF PERFORMANCE.	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.0510	STANDARDS OF PERFORMANCE FOR EXISTING INDIRECT HEATING EQUIPMENT.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.0515	STANDARDS OF PERFORMANCE FOR NEW INDIRECT HEATING EQUIPMENT.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	

TABLE 1 TO PARAGRAPH (C)—EPA-APPROVED MINNESOTA REGULATIONS—Continued

Minnesota citation	Title/subject	State adoption date	EPA approval date	Comments
7011.0520	ALLOWANCE FOR STACK HEIGHT FOR INDIRECT HEATING EQUIPMENT.	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.0525	HIGH HEATING VALUE	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.0530	PERFORMANCE TEST METHODS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.0535	PERFORMANCE TEST PROCEDURES	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.0540	DERATE	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.0545	TABLE I: EXISTING INDIRECT HEATING EQUIPMENT.	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.0550	TABLE II: NEW INDIRECT HEATING EQUIPMENT.	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.0551	RECORD KEEPING AND REPORTING FOR INDIRECT HEATING UNITS COMBUSTING SOLID WASTE.	09/22/2014	07/27/2020, [insert **Federal Register** citation].	
7011.0553	NITROGEN OXIDES EMISSION REDUCTION REQUIREMENTS FOR AFFECTED SOURCES.	02/06/1995	07/27/2020, [insert **Federal Register** citation].	
DIRECT HEATING FOSSIL-FUEL-BURNING EQUIPMENT				
7011.0600	DEFINITIONS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.0605	DETERMINATION OF APPLICABLE STANDARDS OF PERFORMANCE.	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.0610	STANDARDS OF PERFORMANCE FOR FOSSIL–FUEL–BURNING DIRECT HEATING EQUIPMENT.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.0615	PERFORMANCE TEST METHODS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.0620	PERFORMANCE TEST PROCEDURES	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.0625	RECORD KEEPING AND REPORTING FOR DIRECT HEATING UNITS COMBUSTING SOLID WASTE.	09/22/2014	07/27/2020, [insert **Federal Register** citation].	
INDUSTRIAL PROCESS EQUIPMENT				
7011.0700	DEFINITIONS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.0705	SCOPE	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.0710	STANDARDS OF PERFORMANCE FOR PRE–1969 INDUSTRIAL PROCESS EQUIPMENT.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.0715	STANDARDS OF PERFORMANCE FOR POST–1969 INDUSTRIAL PROCESS EQUIPMENT.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.0720	PERFORMANCE TEST METHODS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.0730	TABLE 1	11/19/2007	07/27/2020, [insert **Federal Register** citation].	
7011.0735	TABLE 2	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
CONCRETE MANUFACTURING PLANT STANDARDS OF PERFORMANCE				
7011.0850	DEFINITIONS	04/21/2003	07/27/2020, [insert **Federal Register** citation].	
7011.0852	STANDARDS OF PERFORMANCE FOR CONCRETE MANUFACTURING PLANTS.	11/23/1998	07/27/2020, [insert **Federal Register** citation].	
7011.0854	CONCRETE MANUFACTURING PLANT CONTROL EQUIPMENT REQUIREMENTS.	11/23/1998	07/27/2020, [insert **Federal Register** citation].	
7011.0857	PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE.	11/23/1998	07/27/2020, [insert **Federal Register** citation].	

TABLE 1 TO PARAGRAPH (C)—EPA-APPROVED MINNESOTA REGULATIONS—Continued

Minnesota citation	Title/subject	State adoption date	EPA approval date	Comments
7011.0858	NOISE	11/23/1998	07/27/2020, [insert **Federal Register** citation].	
7011.0859	SHUTDOWN AND BREAKDOWN PROCEDURES.	11/23/1998	07/27/2020, [insert **Federal Register** citation].	
7011.0865	INCORPORATIONS BY REFERENCE	04/21/2003	07/27/2020, [insert **Federal Register** citation].	
7011.0870	STAGE–ONE VAPOR RECOVERY	04/21/2003	07/27/2020, [insert **Federal Register** citation].	
HOT MIX ASPHALT PLANTS				
7011.0900	DEFINITIONS	06/01/1999	07/27/2020, [insert **Federal Register** citation].	
7011.0903	COMPLIANCE WITH AMBIENT AIR QUALITY STANDARDS.	03/04/1996	07/27/2020, [insert **Federal Register** citation].	
7011.0905	STANDARDS OF PERFORMANCE FOR EXISTING ASPHALT CONCRETE PLANTS.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.0909	STANDARDS OF PERFORMANCE FOR NEW HOT MIX ASPHALT PLANTS.	03/04/1996	07/27/2020, [insert **Federal Register** citation].	
7011.0911	MAINTENANCE OF DRYER BURNER ...	03/04/1996	07/27/2020, [insert **Federal Register** citation].	
7011.0913	HOT MIX ASPHALT PLANT MATERIALS, FUELS, AND ADDITIVES OPERATING REQUIREMENTS.	05/24/2004	07/27/2020, [insert **Federal Register** citation].	
7011.0917	ASPHALT PLANT CONTROL EQUIPMENT REQUIREMENTS.	11/29/2004	07/27/2020, [insert **Federal Register** citation].	
7011.0920	PERFORMANCE TESTS	03/04/1996	07/27/2020, [insert **Federal Register** citation].	
7011.0922	OPERATIONAL REQUIREMENTS AND LIMITATIONS FROM PERFORMANCE TESTS.	03/04/1996	07/27/2020, [insert **Federal Register** citation].	
BULK AGRICULTURAL COMMODITY FACILITIES				
7011.1000	DEFINITIONS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.1005	STANDARDS OF PERFORMANCE FOR DRY BULK AGRICULTURAL COMMODITY FACILITIES.	11/19/2007	07/27/2020, [insert **Federal Register** citation].	
7011.1010	NUISANCE	01/12/1998	07/27/2020, [insert **Federal Register** citation].	
7011.1015	CONTROL REQUIREMENTS SCHEDULE.	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
COAL HANDLING FACILITIES				
7011.1100	DEFINITIONS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.1105	STANDARDS OF PERFORMANCE FOR CERTAIN COAL HANDLING FACILITIES.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.1110	STANDARDS OF PERFORMANCE FOR EXISTING OUTSTATE COAL HANDLING FACILITIES.	01/12/1998	07/27/2020, [insert **Federal Register** citation].	
7011.1115	STANDARDS OF PERFORMANCE FOR PNEUMATIC COAL–CLEANING EQUIPMENT AND THERMAL DRYERS AT ANY COAL HANDLING FACILITY.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.1120	EXEMPTION	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.1125	CESSATION OF OPERATIONS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.1135	PERFORMANCE TEST PROCEDURES	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.1140	DUST SUPPRESSANT AGENTS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	

TABLE 1 TO PARAGRAPH (C)—EPA-APPROVED MINNESOTA REGULATIONS—Continued

Minnesota citation	Title/subject	State adoption date	EPA approval date	Comments
	WASTE COMBUSTORS			
7011.1201	DEFINITIONS	10/11/2011	07/27/2020, [insert **Federal Register** citation].	
7011.1205	INCORPORATIONS BY REFERENCE	09/22/2014	07/27/2020, [insert **Federal Register** citation].	
	INCINERATORS			
7011.1300	DEFINITIONS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.1305	STANDARDS OF PERFORMANCE FOR EXISTING SEWAGE SLUDGE INCINERATORS.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.1310	STANDARDS OF PERFORMANCE FOR NEW SEWAGE SLUDGE INCINERATORS.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.1315	MONITORING OF OPERATIONS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.1320	PERFORMANCE TEST METHODS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.1325	PERFORMANCE TEST PROCEDURES	11/29/1993	07/27/2020, [insert **Federal Register** citation].	
	PETROLEUM REFINERIES			
7011.1400	DEFINITIONS	10/18/1993	5/24/1995, 60 FR 27411.	
7011.1405	STANDARDS OF PERFORMANCE FOR EXISTING AFFECTED FACILITIES AT PETROLEUM REFINERIES.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.1410	STANDARDS OF PERFORMANCE FOR NEW AFFECTED FACILITIES AT PETROLEUM REFINERIES.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.1415	EXEMPTIONS	01/12/1998	8/10/2011, 76 FR 49303.	
7011.1420	EMISSION MONITORING	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7011.1425	PERFORMANCE TEST METHODS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7011.1430	PERFORMANCE TEST PROCEDURES	11/29/1993	07/27/2020, [insert **Federal Register** citation].	
	LIQUID PETROLEUM AND VOLATILE ORGANIC LIQUID STORAGE VESSELS			
7011.1500	DEFINITIONS	06/01/1999	07/27/2020, [insert **Federal Register** citation].	
7011.1505	STANDARDS OF PERFORMANCE FOR STORAGE VESSELS.	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.1510	MONITORING OF OPERATIONS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.1515	EXCEPTION	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
	SULFURIC ACID PLANTS			
7011.1600	DEFINITIONS	01/12/1998	07/27/2020, [insert **Federal Register** citation].	
7011.1605	STANDARDS OF PERFORMANCE OF EXISTING SULFURIC ACID PRODUCTION UNITS.	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.1615	CONTINUOUS EMISSION MONITORING	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7011.1620	PERFORMANCE TEST METHODS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.1625	PERFORMANCE TEST PROCEDURES	11/29/1993	07/27/2020, [insert **Federal Register** citation].	
7011.1630	EXCEPTIONS	11/29/1993	07/27/2020, [insert **Federal Register** citation].	

TABLE 1 TO PARAGRAPH (C)—EPA-APPROVED MINNESOTA REGULATIONS—Continued

Minnesota citation	Title/subject	State adoption date	EPA approval date	Comments
	NITRIC ACID PLANTS			
7011.1700	DEFINITIONS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.1705	STANDARDS OF PERFORMANCE FOR EXISTING NITRIC ACID PRODUCTION UNITS.	01/12/1998	07/27/2020, [insert **Federal Register** citation].	
7011.1715	EMISSION MONITORING	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7011.1720	PERFORMANCE TEST METHODS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.1725	PERFORMANCE TEST PROCEDURES	11/29/1993	07/27/2020, [insert **Federal Register** citation].	
	EMISSION STANDARDS FOR INORGANIC FIBROUS MATERIALS			
7011.2100	DEFINITIONS	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
7011.2105	SPRAYING OF INORGANIC FIBROUS MATERIALS.	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
	STATIONARY INTERNAL COMBUSTION ENGINES			
7011.2300	STANDARDS OF PERFORMANCE FOR STATIONARY INTERNAL COMBUSTION ENGINES.	08/23/1993	07/27/2020, [insert **Federal Register** citation].	
	CHAPTER 7017 MONITORING AND TESTING REQUIREMENTS			
7017.0100	ESTABLISHING VIOLATIONS	02/21/1995	07/27/2020, [insert **Federal Register** citation].	
	COMPLIANCE ASSURANCE MONITORING			
7017.0200	INCORPORATION BY REFERENCE	05/24/2004	07/27/2020, [insert **Federal Register** citation].	
	CONTINUOUS MONITORING SYSTEMS			
7017.1002	DEFINITIONS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7017.1004	APPLICABILITY	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1006	REQUIREMENT TO INSTALL MONITOR	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1010	INCORPORATION OF FEDERAL MONITORING REQUIREMENTS BY REFERENCE.	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1020	CONTINUOUS EMISSION MONITORING BY AFFECTED SOURCES.	02/06/1995	07/27/2020, [insert **Federal Register** citation].	
7017.1030	AGENCY ACCESS TO WITNESS OR CONDUCT TESTS.	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1035	TESTING REQUIRED	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1040	INSTALLATION REQUIREMENTS	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1050	MONITOR CERTIFICATION AND RECERTIFICATION TEST.	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1060	PRECERTIFICATION TEST REQUIREMENTS.	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1070	CERTIFICATION TEST PROCEDURES	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1080	CERTIFICATION TEST REPORT REQUIREMENTS.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7017.1090	MONITOR OPERATIONAL REQUIREMENTS.	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1100	EVIDENCE OF NONCOMPLIANCE	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1110	EXCESS EMISSIONS REPORTS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	

TABLE 1 TO PARAGRAPH (C)—EPA-APPROVED MINNESOTA REGULATIONS—Continued

Minnesota citation	Title/subject	State adoption date	EPA approval date	Comments
7017.1120	SUBMITTALS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7017.1130	RECORD KEEPING	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1135	APPLICABILITY	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1140	CEMS DESIGN REQUIREMENTS	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1150	CEMS TESTING COMPANY REQUIREMENT.	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1160	CEMS MONITORING DATA	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1170	QUALITY ASSURANCE AND CONTROL REQUIREMENTS FOR CEMS.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7017.1180	QUALITY CONTROL REPORTING AND NOTIFICATION REQUIREMENTS FOR CEMS.	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1185	APPLICABILITY	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1190	COMS DESIGN REQUIREMENTS	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1200	COMS MONITORING DATA	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.1215	QUALITY ASSURANCE AND CONTROL REQUIREMENTS FOR COMS.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7017.1220	QUALITY ASSURANCE AND CONTROL REPORTING REQUIREMENTS FOR COMS.	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
PERFORMANCE TESTS				
7017.2001	APPLICABILITY	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7017.2005	DEFINITIONS	11/19/2007	07/27/2020, [insert **Federal Register** citation].	
7017.2010	INCORPORATION OF TEST METHODS BY REFERENCE.	03/04/1996	07/27/2020, [insert **Federal Register** citation].	
7017.2015	INCORPORATION OF FEDERAL TESTING REQUIREMENTS BY REFERENCE.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7017.2017	SUBMITTALS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7017.2020	PERFORMANCE TESTS GENERAL REQUIREMENTS.	11/19/2007	07/27/2020, [insert **Federal Register** citation].	
7017.2025	OPERATIONAL REQUIREMENTS AND LIMITATIONS.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7017.2030	PERFORMANCE TEST PRETEST REQUIREMENTS.	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7017.2035	PERFORMANCE TEST REPORTING REQUIREMENTS.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7017.2040	CERTIFICATION OF PERFORMANCE TEST RESULTS.	03/18/1996	07/27/2020, [insert **Federal Register** citation].	
7017.2045	QUALITY ASSURANCE REQUIREMENTS.	07/13/1998	07/27/2020, [insert **Federal Register** citation].	
7017.2050	PERFORMANCE TEST METHODS	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7017.2060	PERFORMANCE TEST PROCEDURES	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
CHAPTER 7019 EMISSION INVENTORY REQUIREMENTS				
7019.1000	SHUTDOWNS AND BREAKDOWNS	06/01/1999	07/27/2020, [insert **Federal Register** citation].	
7019.3000	EMISSION INVENTORY	09/22/2014	07/27/2020, [insert **Federal Register** citation].	Subparts 1 and 2 only
7019.3020	CALCULATION OF ACTUAL EMISSIONS FOR EMISSION INVENTORY.	12/19/2016	07/27/2020, [insert **Federal Register** citation].	
7019.3030	METHOD OF CALCULATION	09/22/2014	07/27/2020, [insert **Federal Register** citation].	

TABLE 1 TO PARAGRAPH (C)—EPA-APPROVED MINNESOTA REGULATIONS—Continued

Minnesota citation	Title/subject	State adoption date	EPA approval date	Comments
7019.3040	CONTINUOUS EMISSION MONITOR (CEM) DATA.	03/01/1999	07/27/2020, [insert **Federal Register** citation].	
7019.3050	PERFORMANCE TEST DATA	09/22/2014	07/27/2020, [insert **Federal Register** citation].	
7019.3060	VOLATILE ORGANIC COMPOUND (VOC) MATERIAL BALANCE.	08/05/1996	07/27/2020, [insert **Federal Register** citation].	
7019.3070	SO_2 MATERIAL BALANCE	08/05/1996	07/27/2020, [insert **Federal Register** citation].	
7019.3080	EMISSION FACTORS	11/19/2007	07/27/2020, [insert **Federal Register** citation].	
7019.3090	ENFORCEABLE LIMITATIONS	08/05/1996	07/27/2020, [insert **Federal Register** citation].	
7019.3100	FACILITY PROPOSAL	08/05/1996	07/27/2020, [insert **Federal Register** citation].	
CHAPTER 7023 MOBILE AND INDIRECT SOURCES				
7023.0100	DEFINITIONS	10/18/1993	5/24/1995, 60 FR 27411.	
7023.0105	STANDARDS OF PERFORMANCE FOR MOTOR VEHICLES.	10/18/1993	5/24/1995, 60 FR 27411.	
7023.0110	STANDARDS OF PERFORMANCE FOR TRAINS, BOATS, AND CONSTRUCTION EQUIPMENT.	10/18/1993	5/24/1995, 60 FR 27411.	
7023.0115	EXEMPTION	10/18/1993	5/24/1995, 60 FR 27411.	
7023.0120	AIR POLLUTION CONTROL SYSTEMS RESTRICTIONS.	10/18/1993	5/24/1995, 60 FR 27411.	
7023.1010	DEFINITIONS	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1015	INSPECTION REQUIREMENT	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1020	DESCRIPTION OF INSPECTION AND DOCUMENTS REQUIRED.	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1025	TAMPERING INSPECTION	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1030	EXHAUST EMISSION TEST	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1035	REINSPECTIONS	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1040	VEHICLE INSPECTION REPORT	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1045	CERTIFICATE OF COMPLIANCE	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1050	VEHICLE NONCOMPLIANCE AND REPAIR.	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1055	CERTIFICATE OF WAIVER	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1060	EMISSION CONTROL EQUIPMENT INSPECTION AS A CONDITION OF WAIVER.	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1065	REPAIR COST LIMIT AND LOW EMISSION ADJUSTMENT.	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1070	CERTIFICATE OF TEMPORARY EXTENSION, CERTIFICATE OF ANNUAL EXEMPTION, AND CERTIFICATE OF EXEMPTION.	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1075	EVIDENCE OF MEETING STATE INSPECTION REQUIREMENTS.	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1080	FLEET INSPECTION STATION PERMITS, PROCEDURES, AND INSPECTION.	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1085	INSPECTION STATIONS TESTING FLEET VEHICLES.	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1090	EXHAUST GAS ANALYZER SPECIFICATIONS; CALIBRATION AND QUALITY CONTROL.	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1100	PUBLIC NOTIFICATION	01/08/1994	10/29/1999, 64 FR 58344.	
7023.1105	INSPECTION FEES	01/08/1994	10/29/1999, 64 FR 58344.	
MINNESOTA STATUTES				
10A.07	CONFLICTS OF INTEREST	05/25/2013	11/2/2017, 82 FR 50807.	
10A.09	STATEMENTS OF ECONOMIC INTEREST.	05/23/2015	11/2/2017, 82 FR 50807.	
17.135	FARM DISPOSAL OF SOLID WASTE	1993	5/24/1995, 60 FR 27411.	Only item (a).
88.01	DEFINITIONS	1993	5/24/1995, 60 FR 27411.	Only Subd. 1, 2, 3, 4, 6, 14, 20, 23, 24, 25, and 26.
88.02	CITATION, WILDFIRE ACT	1993	5/24/1995, 60 FR 27411.	

TABLE 1 TO PARAGRAPH (C)—EPA-APPROVED MINNESOTA REGULATIONS—Continued

Minnesota citation	Title/subject	State adoption date	EPA approval date	Comments
88.03	CODIFICATION	1993	5/24/1995, 60 FR 27411.	
88.16	STARTING FIRES; BURNERS; FAILURE TO REPORT A FIRE.	1993	5/24/1995, 60 FR 27411.	Only Subd. 1 and 2.
88.17	PERMISSION TO START FIRES; PROSECUTION FOR UNLAWFULLY STARTING FIRES.	1993	5/24/1995, 60 FR 27411.	
88.171	OPEN BURNING PROHIBITIONS	1993	5/24/1995, 60 FR 27411.	Only Subd. 1, 2, 5, 6, 7, 8, 9, and 10.
116.11	EMERGENCY POWERS	1983	07/27/2020, [insert **Federal Register** citation].	
TWIN CITIES NONATTAINMENT AREA FOR CARBON MONOXIDE				
116.60		1999	10/29/1999, 64 FR 58344	Only Subd. 12.
116.61		1999	10/29/1999, 64 FR 58344	Only Subd. 1 and 3.
116.62		1999	10/29/1999, 64 FR 58344	Only Subd. 2, 3, 5, and 10.
116.63		1999	10/29/1999, 64 FR 58344	Only Subd. 4.

* * * * *

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.*

■ 4. Section 81.324 is amended by revising the entry ''Otter Tail County'' in the table entitled ''MINNESOTA—PM–10'' to read as follows:

§ 81.324 Minnesota.

* * * * *

MINNESOTA—PM–10

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* *	*	* *	*	*
Otter Tail County		Unclassifiable/Attainment.		
* *	*	* *	*	*

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 2020–13469 Filed 7–24–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–SFUND–2005–0011; FRL–10012–63–Region 5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Scrap Processing Co., Inc. Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 5 is publishing a direct final Notification of Deletion of the Scrap Processing Co., Inc. Superfund Site (Scrap Processing Site or Site), located in Medford, Wisconsin, from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Wisconsin, through the Wisconsin Department of Natural Resources (WDNR) because EPA has determined that all appropriate response actions under CERCLA, other than operation and maintenance, monitoring institutional controls, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective September 25, 2020 unless EPA receives adverse comments by August 26, 2020. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2005–0011, by one of the following methods:

• *https://www.regulations.gov.* Follow the on-line instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any

information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

• *Email: Deletions@usepa.onmicrosoft.com.*

Written comments submitted by mail are temporarily suspended and no hand deliveries will be accepted. We encourage the public to submit comments via email or at *https://www.regulations.gov.*

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–2005–0011. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov* or email. The *https://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index, Docket ID No. EPA–HQ–SFUND–2005–0011. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *https://www.regulations.gov* and at *https://www.epa.gov/superfund/scrap-processing* or you may contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

The EPA is temporarily suspending its Docket Center and Regional Records Centers for public visitors to reduce the risk of transmitting COVID–19. In addition, many site information repositories are closed and information in these repositories, including the deletion docket, has not been updated with hardcopy or electronic media. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID–19.

FOR FURTHER INFORMATION CONTACT: Karen Cibulskis, NPL Deletion Coordinator, U.S. Environmental Protection Agency Region 5, at (312) 886–1843 or via email at *cibulskis.karen@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

EPA Region 5 is publishing this direct final Notification of Deletion of the Scrap Processing Site from the NPL. The NPL constitutes Appendix B of 40 CFR part 300, which is the NCP, which EPA promulgated pursuant to Section 105 of CERCLA of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 40 CFR 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Section II of this preamble explains the criteria for deleting sites from the NPL. Section III of this preamble discusses the procedures that EPA is using for this action. Section IV of this preamble discusses where to access and review information that demonstrates how the deletion criteria have been met at the Scrap Processing Site. Section V of this preamble discusses EPA's action to delete the Scrap Processing Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA Section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Scrap Processing Site:

(1) EPA consulted with the State of Wisconsin prior to developing this

direct final Notification of Deletion and the Notification of Intent to Delete co-published today in the ''Proposed Rules'' section of the **Federal Register**.

(2) EPA has provided the State thirty (30) working days for review of this action and the parallel Notification of Intent to Delete prior to their publication today, and the State, through the WDNR, concurred with the deletion of the Scrap Processing Site from the NPL on July 16, 2020.

(3) Concurrently with the publication of this direct final Notification of Deletion, an announcement of the availability of the parallel Notification of Intent to Delete is being published in a major local newspaper, The Star News. The newspaper advertisement announces the 30-day public comment period concerning the Notification of Intent to Delete the Scrap Processing Site from the NPL.

(4) EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at *https://www.regulations.gov,* Docket ID No. EPA–HQ–SFUND–2005–0011 and at *https://www.epa.gov/superfund/scrap-processing.*

If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notification of Deletion in the **Federal Register** before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notification of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The EPA placed a copy of its Final Close Out Report for the Site and other documents supporting the proposed deletion in the deletion docket. The material provides the explanation of EPA's rationale for the deletion and demonstrates how it meets the deletion criteria. This information is made available for public inspection in the deletion docket available at *https://www.regulations.gov,* Docket ID No. EPA–HQ–SFUND–2005–0011 and at *https://www.epa.gov/superfund/scrap-processing.*

V. Deletion Action

EPA, with concurrence of the State of Wisconsin, through the WDNR, has determined that all appropriate response actions under CERCLA, other than operation and maintenance, monitoring institutional controls, and five-year reviews have been completed at the Scrap Processing Site. Therefore, EPA is deleting the Scrap Processing Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective September 25, 2020 unless EPA receives adverse comments by August 26, 2020. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final Notification of Deletion before its effective date and the deletion will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the Notification of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: July 22, 2020.

Kurt Thiede,

Regional Administrator, Region 5.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

Appendix B to Part 300—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by removing the entry ''WI,'' ''Scrap Processing Co., Inc.'', ''Medford''.

[FR Doc. 2020–16248 Filed 7–24–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2013–0225; FRL–10010–44]

RIN 2070–AJ99

Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances; Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under the Toxic Substances Control Act (TSCA), the Environmental Protection Agency (EPA) is finalizing amendments to the significant new use rule (SNUR) for long-chain perfluoroalkyl carboxylate (LCPFAC) chemical substances that were proposed on January 21, 2015; an amendment to a SNUR for perfluoroalkyl sulfonate chemical substances that was proposed on January 21, 2015; and an amendment to make inapplicable the exemption for persons who import a subset of LCPFAC chemical substances as part of surface coatings on articles, which was proposed on March 3, 2020. This final rule requires persons to notify EPA at least 90 days before commencing the manufacture (including import) or processing of these chemical substances for the significant new uses described in this notice. The required significant new use notification initiates EPA's evaluation of the conditions of use associated with the significant new use. Manufacturing (including import) or processing for the significant new use are prohibited from commencing until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination. As with any SNUR, this final rule excludes ongoing uses. Ongoing uses cannot be subject to a SNUR.

DATES: This final rule is effective September 25, 2020.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2013–0225, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public

Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Tyler Lloyd, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–4016; email address: *lloyd.tyler@epa.gov.*

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

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture (including import), process, or distribute in commerce chemical substances and mixtures in the class of long-chain perfluoroalkyl carboxylate (LCPFAC) and perfluoroalkyl sulfonate chemical substances. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers (including importers) of one or more of subject chemical substances (NAICS codes 325 and 324110); *e.g.,* chemical manufacturing and petroleum refineries.
- Fiber, yarn, and thread mills (NAICS code 31311).
- Carpet and rug mills (NAICS code 314110).
- Home furnishing merchant wholesalers (NAICS code 423220).
- Carpet and upholstery cleaning services (NAICS code 561740).
- Manufacturers of computer and other electronic products, appliances, and components (NAICS codes 324 and 335).
- Manufacturers of surgical and medical instruments (NAICS 339112).
- Merchant wholesalers (NAICS codes 423 and 424).
- Stores and retailers (NAICS codes 442, 442, 444, 448, 451, 454).
- Providers of other support services (NAICS code 561990).

Other types of entities not listed in this unit could also be affected. The NAICS codes have been provided to assist you and others in determining whether this action might apply to certain entities.

This action may affect certain entities through pre-existing import certification and export notification rules under TSCA. Persons who import any chemical substance governed by a final SNUR are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements and the corresponding regulations at 19 CFR 12.118 through 12.127; see also 19 CFR 127.28. Those persons must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, including any SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. Additionally, persons who export or intend to export a chemical substance that is the subject of a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b); see also 40 CFR part 707, subpart D and 40 CFR 721.20). Under the existing TSCA import certification and export notification rules, persons who import a chemical substance covered under this final rule as part of an article would be exempt from TSCA section 13 import certification, and persons who export or intend to export a chemical substance as part of an article would be exempt from the TSCA section 12(b) export notification requirements. See Unit V. for more information on the applicability of the import certification and export notification requirements.

If you have any questions regarding the applicability of this action to a particular entity, consult the technical information contact listed under **FOR FURTHER INFORMATION CONTACT**.

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

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including those listed in TSCA section 5(a)(2). TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of the following factors:

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

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B)(i) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture (including import) or process the chemical substance for that use (15 U.S.C. 2604(a)(1)(B)(i)). TSCA furthermore prohibits such manufacturing or processing from commencing until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination (15 U.S.C. 2604(a)(1)(B)(ii)). Additionally, TSCA section 5(a)(5) (15 U.S.C. 2604(a)(5)), as amended in 2016, authorizes EPA to require notification for the import or processing of a chemical substance as part of an article or category of articles under TSCA section 5(a)(1)(A)(ii) (15 U.S.C. 2604(a)(1)(A)(ii)) if EPA makes an affirmative finding in a rule under TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) that the reasonable potential for exposure to the chemical substance through the article or category of articles subject to the rule justifies notification. As described in Unit V., the general SNUR provisions are found at 40 CFR part 721, subpart A.

C. What action is the Agency taking?

In the **Federal Register** of January 21, 2015 (80 FR 2885) (FRL–9915–63), EPA proposed a SNUR for Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances (Ref. 1). In the **Federal Register** of March 3, 2020 (85 FR 12479) (FRL–10003–21) (Ref. 2), EPA supplemented the 2015 proposed SNUR to be responsive to the article consideration provision at section 5(a)(5), added with the passage of the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Lautenberg Act), which states that articles can be subject to notification requirements as a significant new use provided that EPA makes an affirmative finding in a rule that the reasonable potential for exposure to a chemical from an article or category of articles justifies notification.

EPA's response to public comments received on both the 2015 proposed rule and the 2020 supplemental proposed rule are provided in a Response to Comments document that is available in the docket and summarized in Unit XII. (Ref. 3). Please consult the **Federal Register** documents of January 21, 2015 (Ref. 1) and March 3, 2020 (Ref. 2) for further background information for this final rule.

This final SNUR will require persons to notify EPA at least 90 days before commencing:

1. The manufacturing (including importing) or processing of a subset of LCPFAC chemical substances for any use that was not ongoing after December 31, 2015;

2. The manufacturing (including importing) or processing of all other LCPFAC chemicals substances for which there were no ongoing uses as of January 21, 2015 (the date of the original 2015 proposal);

3. The import of a subset of LCPFAC chemicals as part of a surface coating on articles; and

4. The import of perfluoroalkyl sulfonate chemical substances as part of carpets.

This final SNUR will preclude the commencement of such manufacturing and processing until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination.

In the **Federal Register** of April 24, 1990 (55 FR 17376; FRL–3658–5), EPA decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the proposed rule rather than as of the effective date of the final rule. Uses arising after the publication of the proposed rule are distinguished from uses that exist at publication of the proposed rule. The former would be new uses, the latter would be ongoing uses, except that uses that are ongoing as of the publication of the proposed rule would not be considered ongoing uses if they have ceased by the date of issuance of a final rule. This rule was published on January 21, 2015 and contains two significant new use dates. The first significant new use date is the date that the 2015 proposed rule published and applies to: The manufacturing or processing of all LCPFAC chemicals substances, other than those listed in the list of LCPFAC chemical substances in Unit II.; the import of articles containing a subset of LCPFAC chemical substances as part of a surface coating; and the import of perfluoroalkyl sulfonate chemical substances as part of carpets. The second significant new use date is December 31, 2015, for the manufacturing or processing of a subset of LCPFAC chemical substances, those listed in the list of LCPFAC chemical substances in Unit II. for any use. The chemical substances listed in the list of LCPFAC chemical substances in Unit II. correspond to the chemical substances that the principal manufacturers and processors of LCPFAC chemical substances participating in the 2010/2015 PFOA Stewardship Program agreed to phaseout by the end of 2015. Ongoing uses are described in the Response to Comment for this rule (Unit XII. and Ref. 3) and are reflected in updates to the regulatory text.

In the supplement to the proposed rule (Ref. 2), EPA requested comment on whether EPA could adopt a de minimis threshold for determining ''reasonable potential for exposure'' and if so, how that de minimis threshold could be established. Additionally, EPA requested comment on whether or not the Agency should include a safe harbor provision for importers of articles that can demonstrate their use was ongoing prior to the effective date of this rule. EPA appreciates the comments received. In this final rule, EPA is not finalizing a de minimis threshold for determining ''reasonable potential for exposure'' or a safe harbor provision. EPA will, however, continue to engage with interested stakeholders on these two issues. A further discussion of the comments received relating to a de minimis threshold and a safe harbor provision are included in the Response to Comment for this rule (Unit XII. and Ref. 3).

D. Why is the Agency taking this action?

These SNUR amendments are necessary to ensure that EPA receives timely advance notice of any future manufacturing (including importing) and processing of LCPFAC and perfluoroalkyl sulfonate chemical substances for new uses that may produce changes in human and environmental exposures. Additionally, section 7352 of the National Defense Authorization Act of 2020 mandates that EPA take final action on the 2015 proposal no later than June 22, 2020.

The rationale and objectives for this rule are explained in Unit III.

E. What are the estimated incremental impacts of this action?

EPA has evaluated the potential costs of establishing SNUR reporting requirements for potential manufacturers (including importers) and processors of the chemical substances included in this final rule. This Economic Analysis (Ref. 4), which is available in the docket, is discussed in Unit IX., and is briefly summarized here.

In the event that a SNUN is submitted, costs are estimated to be approximately $23,000 per SNUN submission for large business submitters and about $10,000 for small business submitters. The rule may also affect firms that plan to import articles that may be subject to the SNUR. Although there are no specific requirements in the rule for these firms, they may choose to undertake some activity to assure themselves that they are not undertaking a significant new use. In the accompanying Economic Analysis for this SNUR (Ref. 4), EPA provides example steps (and their respective costs) that an importer might take to identify LCFPAC chemical substances in articles. These can include gathering information through agreements with suppliers, declarations through databases or surveys, or use of a third-party certification system. EPA is unable to predict, however, what, if any, particular steps an importer might take; thus, potential total costs were not estimated. Importers may require suppliers to provide certificates of testing analysis of the products or perform their own laboratory testing of certain articles. An estimate of article testing cost is provided in Exhibit 3–7 of the Economic Analysis. While testing costs will vary depending on the specific chemical being tested for, the complexity of the article and sample preparation required, and the exact fees of the laboratory chosen for the analysis, an average of $150 per article tested is given in the Exhibit.

II. Chemical Substances Subject to This Rule

This final SNUR modifies the requirements for a subset of LCPFAC chemical substances in the existing SNUR at 40 CFR 721.10536 by:

1. Designating manufacturing (including importing) or processing of LCPFAC chemical substances listed in the list of LCPFAC chemical substances in this unit for any use that was no longer ongoing after December 31, 2015, as a significant new use; and

2. Designating manufacturing (including importing) or processing of perfluorooctanoic acid (PFOA) or its salts, which are considered LCPFAC chemical substances, and all other LCPFAC chemical substances for any use not ongoing as of January 21, 2015, the date on which the proposed rule was published, as a significant new use.

For this final SNUR, EPA is also making the exemption at 40 CFR

721.45(f) inapplicable for persons who import LCPFAC chemical substances listed in the list of LCPFAC chemical substances in this unit and PFOA or its salts (see examples in this unit) as part of a surface coating on articles because there is reasonable potential for exposure to LCPFAC chemical substances, including PFOA, if these chemical substances are incorporated as surface coatings in articles and then imported. As was originally proposed in 2015, the article exemption still applies to LCPFAC chemical substances not listed in this unit or that are not PFOA or its salts, with the exception of the import of carpets, for which the import exemption is already inapplicable (78 FR 62443, October 22, 2013; FRL–9397–1). The other provision of 40 CFR 721.45(f), respecting processing a chemical substance as part of an article, remains applicable. These LCPFAC chemical substances are:

- Perfluorooctyl iodide (CAS Registry No. (CASRN) 507–63–1; TSCA Chemical Inventory Name: Octane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8-heptadecafluoro-8-iodo-).
- Tetrahydroperfluoro-1-decanol (CASRN 678–39–7; TSCA Chemical Inventory Name: 1-Decanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro-).
- Perfluoro-1-dodecanol (CASRN 865–86–1; TSCA Chemical Inventory Name: 1-Dodecanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10, 10,11,11,12,12,12-heneicosafluoro-).
- Perfluorodecyl iodide (CASRN 2043–53–0; TSCA Chemical Inventory Name: Decane, 1,1,1,2,2,3,3,4,4,5,5 ,6,6,7,7,8,8-heptadecafluoro-10-iodo-).
- 1,1,2,2-Tetrahydroperfluorododecyl iodide (CASRN 2043–54–1; TSCA Chemical Inventory Name: Dodecane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10, 10-heneicosafluoro-12-iodo-).
- Perfluorodecylethyl acrylate (CASRN 17741–60–5; TSCA Chemical Inventory Name: 2-Propenoic acid, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11, 12,12,12-heneicosafluorododecyl ester).
- 1,1,2,2-Tetrahydroperfluorodecyl acrylate (CASRN 27905–45–9; TSCA Chemical Inventory Name: 2-Propenoic acid, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl ester).
- 1,1,1,2,2,3,3,4,4,5,5,6,6, 7,7,8,8,9,9,10,10,11,11,12,12-Pentacosafluoro-14-iodotetradecane (CASRN 30046–31–2; TSCA Chemical Inventory Name: Tetradecane, 1,1,1,2,2,3,3,4,4,5,5,6,6, 7,7,8,8,9,9,10,10,11,11,12,12-pentacosafluoro-14-iodo-).
- 3,3,4,4,5,5,6,6,7,7, 8,8,9,9,10,10,11,11, 12,12,13,13,14,14,14-Pentacosafluorotetradecan-1-ol (CASRN 39239–77–5; TSCA Chemical Inventory Name: 1-Tetradecanol, 3,3,4,4,5,5,6,6,7,7,8,8, 9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosafluoro-).
- 3,3,4,4,5,5,6,6,7,7,8,8,9,9, 10,10,11,11,12,12,13,13,14, 14,15,15,16,16,16-Nonacosafluorohexadecan-1-ol (CASRN 60699–51–6; TSCA Chemical Inventory Name: 1-Hexadecanol, 3,3,4,4,5,5,6,6, 7,7,8,8,9,9,10,10,11,11,12,12,13,13,14, 14,15,15,16,16,16-nonacosafluoro-).
- 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7, 8,8,9,9,10,10,11,11,12,12,13,13,14,14-Nonacosafluoro-16-iodohexadecane (CASRN 65510–55–6; TSCA Chemical Inventory Name: Hexadecane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8, 9,9,10,10,11,11,12,12,13,13,14,14-nonacosafluoro-16-iodo-).
- Sodium;2-methylpropane-1-sulfonate (CASRN 68187–47–3; TSCA Chemical Inventory Name: 1-Propanesulfonic acid, 2-methyl-, 2-[[1-oxo-3-[(.gamma.-.omega.-perfluoro- C4–16-alkyl)thio]propyl]amino] derivs., sodium salts).
- 1,1,2,2-Tetrahydroperfluoroalkyl (C8–C14) alcohol (CASRN 68391–08–2; TSCA Chemical Inventory Name: Alcohols, C8–14, .gamma.-.omega.-perfluoro).
- Thiols, C8–20, gamma-omega-perfluoro, telomers with acrylamide (CASRN 70969–47–0; TSCA Chemical Inventory Name: Thiols, C8–20, .gamma.-.omega.-perfluoro, telomers with acrylamide).
- Silicic acid (H_4SiO_4), sodium salt (1:2), reaction products with chlorotrimethylsilane and 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro-1-decanol (CASRN 125476–71–3; TSCA Chemical Inventory Name: Silicic acid (H_4SiO_4), sodium salt (1:2), reaction products with chlorotrimethylsilane and 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro-1-decanol).
- Thiols, C4–20, gamma-omega-perfluoro, telomers with acrylamide and acrylic acid, sodium salts) (CASRN 1078712–88–5; TSCA Chemical Inventory Name: Thiols, C4–20, .gamma.-.omega.-perfluoro, telomers with acrylamide and acrylic acid, sodium salts).
- 1-Propanaminium, 3-amino-N-(carboxymethyl)-N,N-dimethyl-, N-(2-((gamma-omega-perfluoro-C4–20-alkyl)thio)acetyl) derivs., inner salts (CASRN 1078715–61–3; TSCA Chemical Inventory Name: 1-Propanaminium, 3-amino-N-(carboxymethyl)-N,N-dimethyl-, N-[2-[(.gamma.-.omega.-perfluoro-C4–20-a lkyl)thio]acetyl] derivs., inner salts).
- Polyfluoroalkyl betaine (generic) (CASRN is CBI; EPA Accession No. 71217; TSCA Chemical Inventory Name: Polyfluoroalkyl betaine (PROVISIONAL)).
- Modified fluoroalkyl urethane (generic) (CASRN is CBI; EPA Accession No. 89419; TSCA Chemical Inventory Name: Modified fluoroalkyl urethane (PROVISIONAL)).
- Perfluorinated polyamine (generic) (CASRN is CBI; EPA Accession No. 274147; TSCA Chemical Inventory Name: Perfluorinated polyamine (PROVISIONAL)).

The term LCPFAC refers to the long-chain category of perfluorinated carboxylate chemical substances with perfluorinated carbon chain lengths equal to or greater than seven carbons and less than or equal to 20 carbons. The category of LCPFAC chemical substances also includes the salts and precursors of these perfluorinated carboxylates. See Unit II.A. of the 2015 proposed rule (Ref. 1) for further discussion of the LCPFAC category. In addition to the subset of LCPFAC chemical substances identified in the list above, PFOA and its salts are subject to the final rule. PFOA and its salts are considered LCPFAC chemical substances. PFOA and examples of PFOA salts with CASRNs and chemical names are as follows:

- Pentadecafluorooctanoyl fluoride (CASRN 335–66–0; TSCA Chemical Inventory Name: Octanoyl fluoride, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-).
- Perfluorooctanoic acid (CASRN 335–67–1; TSCA Chemical Inventory Name: Octanoic acid, 2,2,3,3,4,4,5,5,6, 6,7,7,8,8,8-pentadecafluoro- (PFOA)).
- Silver perfluorooctanoate (CASRN 335–93–3; TSCA Chemical Inventory Name: Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, silver (+) salt (1:1)).
- Sodium perfluorooctanoate (CASRN 335–95–5; TSCA Chemical Inventory Name: Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, sodium salt (1:1)).
- Potassium perfluorooctanoate (CASRN 2395–00–8; TSCA Chemical Inventory Name: Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, potassium salt (1:1)).
- Ammonium perfluorooctanoate (CASRN 3825–26–1; TSCA Chemical Inventory Name: Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, ammonium salt (1:1) (APFO).

EPA is also amending the existing SNUR at 40 CFR 721.9582 for perfluoroalkyl sulfonate chemical substances to make the exemption at 40

CFR 721.45(f) inapplicable for persons who import perfluoroalkyl sulfonate chemical substances as part of carpets, which is being finalized as proposed. The perfluoroalkyl sulfonate chemical substances for which EPA is modifying an existing SNUR are currently listed in 40 CFR 721.9582(a)(1). In this rule, which is consistent with the proposal and 40 CFR 721.9582, the term perfluoroalkyl sulfonates refers to a category of perfluorinated sulfonate chemical substances of any chain length. In the 2015 proposed rule, as was past practice, perfluoroalkyl sulfonates chemical substances were referred to as ''PFAS'' chemical substances. EPA, however, recognizes that the acronym PFAS is now used for ''perfluoroalkyl and polyfluoroalkyl substances.'' Moving forward, EPA will use PFAS as an acronym for perfluoroalkyl and polyfluoroalkyl substances.

III. Rationale and Objectives

A. Rationale

1. Known Exposures to LCPFAC and Perfluoroalkyl Sulfonate Substances

LCPFAC and perfluoroalkyl sulfonate chemical substances have been found in the blood of the general human population, as well as in wildlife, indicating that exposure to these chemical substances is widespread (Refs. 5, 6, and 7). PFOA and its salts, which are considered LCPFAC chemical substances, have been a primary focus of studies related to the LCPFAC class of chemical substances. PFOA is persistent, widely present in humans and the environment, has a half-life in humans of 2.3–3.8 years, and can cause adverse effects in laboratory animals, including cancer and developmental and systemic toxicity (Refs. 5, 8, 9, 10, and 11). Human epidemiology data report associations between PFOA exposure and high cholesterol, increased liver enzymes, decreased vaccination response, thyroid disorders, pregnancy-induced hypertension and preeclampsia, and cancer (testicular and kidney) (Ref. 12). PFOA precursors, chemicals which degrade or may degrade to PFOA, are also present worldwide in humans and the environment and, in some cases, might be more toxic and be present at higher concentrations than PFOA (Refs. 13, 14, 15, 16, and 17). Multiple pathways of exposure, including through drinking water, food, house dust, and release from treated articles, are possible (Ref. 18).

Perfluoroalkyl sulfonate chemical substances degrade ultimately to perfluoroalkylsulfonic acid (PFASA), which can exist in the anionic form under certain environmental conditions (Ref. 15). PFASA is highly persistent in the environment and has a tendency to bioaccumulate (Ref. 15). While most studies of perfluoroalkyl sulfonate chemical substances to date have focused primarily on perfluorooctane sulfonate (PFOS), structure-activity relationship analysis indicates that the results of those studies are applicable to the entire category. Available test data have raised concerns about their potential developmental, reproductive, and systemic toxicity (Refs. 5, 6, 13, and 19).

In the absence of a regulation, manufacture or processing for the significant new uses proposed on January 21, 2015 (Ref. 1), may begin at any time, without prior notice to EPA. As explained in the January 21, 2015, proposal (Ref. 1), EPA is concerned that commencement of the manufacture or processing for any new uses, including resumption of past uses, of LCPFAC and perfluoroalkyl sulfonate chemical substances could increase the magnitude and duration of exposure to humans and the environment.

The manufacture of LCPFAC chemical substances listed in Unit II. was discontinued after December 31, 2015, as committed by the principal manufacturers and processors of LCPFAC chemical substances participating in the 2010/2015 PFOA Stewardship Program. Given that these chemical substances have been discontinued, EPA expects the presence of LCPFAC chemical substances in humans and the environment to decline over time as has been observed in the past when production and use of other persistent chemicals have ceased (Ref. 20). At this time, EPA is aware, and has provided an exemption for, the processing of select chemical substances listed in Unit II. that continues from the use of existing stocks for specific uses. The processing of existing stocks of these LCPFAC chemical substances is expected to decline over time as stocks of these chemicals are depleted. Similarly, EPA also expects ongoing uses of other LCPFAC chemicals substances to decline because the manufacture and processing for those uses have declined or ceased, as indicated by industry communication, market research, information submitted to EPA under the Chemical Data Reporting (CDR) rule, and comments received related to the proposed rule (Ref. 1) and supplement to the proposed rule (Ref. 2). In addition, EPA expects the presence of perfluoroalkyl sulfonate chemical substances to decline in humans and the environment because perfluoroalkyl sulfonates are no longer imported as part of carpets. EPA is concerned that the manufacturing or processing of these chemical substances for significant new uses could be reinitiated in the future. If reinitiated, EPA believes that such use could significantly increase the magnitude and duration of exposure to humans and the environment to these chemical substances.

2. Identification of Significant New Uses

Consistent with EPA's past practice for issuing SNURs under TSCA section 5(a)(2), EPA's decision to propose a SNUR for a particular use of a chemical substance is not based on an extensive evaluation of the hazard, exposure, or potential risk associated with that use. Rather, EPA's determination that a use constitutes a significant new use requires a notice, upon receipt of which EPA would conduct an assessment. If a person decides to begin manufacturing or processing any of these chemicals for a significant new use, the notice to EPA allows the Agency to evaluate the use according to the specific parameters and circumstances surrounding the conditions of use.

3. Basis for Lifting the Article Exemption

Enacted on June 22, 2016, the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Pub. L. 114–182) amended several sections of TSCA and added section 5(a)(5), Article Consideration, which states that EPA ''may require notification under this section for the import or processing of a chemical substance as part of an article or category of articles'' if EPA affirmatively finds in a rule under section 5(a)(2) that the reasonable potential for exposure to the chemical substance through the article or category of articles justifies notification. In the 2015 proposal (Ref. 1), EPA proposed to make the exemption from notification requirements for persons who import the chemical substance as part of an article inapplicable for the import of a subset of LCPFAC chemical substances in ''all'' articles. After careful consideration, and in order to align the 2015 proposed rule with the new requirements under TSCA, EPA issued a supplemental proposal to require submission of a significant new use notice for the import of a subset of LCPFAC chemical substances ''as part of a surface coating on articles'' as opposed to ''all articles.'' The supplemental proposal better defined the articles subject to the rule by defining the subject articles by the category: ''imported articles where certain

LCPFAC chemical substances are part of a surface coating on the articles.'' While the 2020 supplemental and the 2015 proposed SNUR differ in language, EPA believes that the difference in impact will be minimal. LCPFAC chemical substances can be applied to articles as a surface coating. By lifting the articles exemption for articles that contain certain LCPFAC chemical substances as part of a surface coating, EPA believes that it has captured the majority of article applications of these chemical substances. Other than instances where LCPFAC chemicals may be used to manufacture fluoropolymer membranes, EPA is unaware of any other uses of LCPFAC chemical substances in articles other than as a surface coating. EPA may propose future SNURs for the import of other articles containing LCPFAC chemical substances as appropriate.

Products such as paints and coatings, lubricants, and fire-fighting foam are not articles. As defined at 40 CFR 704.3, article means a manufactured item (1) which is formed to a specific shape or design during manufacture, (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article, and that result from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles; except that fluids and particles are not considered articles regardless of shape or design. Examples of articles that could contain LCPFAC chemical substances as part of a surface coating include, but are not limited to, apparel, outdoor equipment, automotive parts, carpets, furniture, and electronic components.

As detailed in the March 3, 2020 supplemental proposal (Ref. 2), given that the release of LCPFAC chemical substances from surface coatings on articles has been shown to occur and that these releases can reasonably be expected to result in exposure to the users of articles and the general public (Refs. 21, 22, 23, 24, and 25), EPA has reason to anticipate that importing articles that have certain LCPFAC chemical substances as part of a surface coating would create a reasonable potential for exposure to these LCPFAC chemical substances, and that EPA should have an opportunity to review the use before such use could occur. Therefore, in light of the evidence before EPA (including the studies referenced below), EPA affirmatively finds under TSCA section 5(a)(5) that notification for import is justified by the reasonable potential for exposure to certain LCPFAC chemical substances when part of surface coatings on articles. If a person wants to recommence a significant new use, existence of the SNUR ensures the submission of a SNUN, thereby allowing EPA to evaluate potential uses (before those uses would begin) for any hazards, exposures and risks that might exist.

During the public comment period for the supplemental proposal (Ref. 2), several commenters questioned if EPA had adequately shown the reasonable potential for exposure from articles containing LCPFAC chemical substances as part of a surface coating or the risks associated with such potential exposure. One commenter asked that EPA provide linking data between presence of LCPFAC chemical substances in the general population and the release of LCPFAC chemical substances from coatings. EPA believes that the reasonable potential for exposure has been addressed through the studies cited in both this final rule and the supplement to the proposed rule (Refs. 2, 5, 23, 25, and 26). EPA has provided support that there is a reasonable potential for exposure through the citation of peer-reviewed literature, which documents that LCPFAC chemical substances either have the reasonable potential to migrate from articles or that LCPFAC chemical substances do migrate from articles. In order to require notification for the import or processing of an article under TSCA section 5, it is not necessary to definitively show or illustrate the mechanisms by which exposure to a chemical substance through an article may occur. Since the use designated as a significant new use does not currently exist, EPA defers a detailed consideration of potential exposures related to that use until there is a specific condition of use and data to review. EPA's standard for an affirmative finding is consistent with the statutory language requiring a reasonable potential for exposure (rather than a certainty of exposure.

As stated in the supplemental proposal, a coating is a material applied in a thin layer to a surface as a protective, decorative, or functional film. This term often refers to paints such as lacquers or enamels, but also refers to films applied to other materials including, but are not limited to, paints, varnishes, sealants, adhesives, inks, maskants, and temporary protective coatings. During the public comment period for the 2020 supplemental proposal (Ref. 2), several commenters asked EPA to define ''surface coating'' and to include a definition in the regulatory text. EPA does not intend to finalize a regulatory definition of ''surface coating.'' Rather, EPA will be issuing guidance within a reasonable timeframe of the final rule. EPA is not defining this term due to the many different ways that LCPFAC chemical substances could be applied to an article as part of a surface coating and how a given article could move through the supply chain from manufacture to disposal. EPA believes that this approach ensures that EPA will have the opportunity to conduct a detailed consideration of potential exposures related to these uses when there is a specific condition of use to review. If EPA receives a SNUN, EPA will evaluate the potential releases from the article with information specific to that article.

Articles that have surface coatings that contain certain LCPFAC chemical substances that have been cured or undergone chemical reaction after being applied to an article are subject to this rule. Even when LCPFAC are bound within the matrix of the coating, they can still be released from the coating over time and present a reasonable potential for exposure. These surface coatings have been unambiguously shown to be a source of LCPFAC in the environment (Refs. 23, 25, 27, and 28), even when adhered to surfaces in accordance with practices reported in patents (Refs. 23 and 25), and hence, present the reasonable potential for exposure to the chemical substance through the category of articles subject to the rule.

As noted in Unit V. of the proposed rule (Ref.1), EPA is retaining the exemption at 40 CFR 721.45(f) for persons who process chemical substances as part of articles because existing stocks of articles still contain LCPFAC or perfluoroalkyl sulfonate chemical substances. EPA considers recycling to be a form of processing (Ref. 29). Because the processing of articles containing LCPFAC or perfluoroalkyl sulfonate chemical substances is ongoing, it cannot be subject to a SNUR. If EPA finds reason to believe that the processing of articles containing LCPFAC or perfluoroalkyl sulfonate chemical substances has ceased, EPA may issue a future SNUR on the processing of articles that contain these chemical substances. See Comment-Response 7 in the Response to Comment document for additional discussion of the ongoing processing of these chemical substances (Ref. 3).

B. Objectives

Based on the considerations in Unit III.A., EPA wants to achieve the following objectives with regard to the significant new uses of LCPFAC and perfluoroalkyl sulfonate chemical substances that are designated in the January 21, 2015, proposal (Ref. 1) and the March 3, 2020, supplemental proposal (Ref. 2):

1. EPA would receive notice of any person's intent to manufacture (including import) or process the chemical substances for the described significant new use before that activity begins.

2. EPA would have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing the chemical substances for the described significant new use.

3. EPA would be able to either determine that the significant new use is not likely to present an unreasonable risk, or to take necessary regulatory action associated with any other determination, before the described significant new use of the chemical substance occurs.

IV. Significant New Use Determination

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

1. The projected volume of manufacturing and processing of a chemical substance.

2. The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.

3. The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.

4. The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors to determine what would constitute a significant new use of the LCPFAC and perfluoroalkyl sulfonate chemical substances subject to this final rule, as discussed in this unit. EPA considered relevant information about the toxicity of these substances, trends in blood levels, likely human exposures and environmental releases associated with possible uses, and the four factors listed in TSCA section 5(a)(2).

As discussed in Unit III.A., since the manufacture (including import) and processing of LCPFAC and perfluoroalkyl sulfonate chemical substances for these uses has been discontinued in the United States, exposure will decrease over time. EPA expects their presence in humans and the environment to decline over time. If any of the new uses of LCPFAC and perfluoroalkyl sulfonate chemical substances were to resume after having been phased out, EPA believes that such uses could both change the type and form and increase the magnitude and duration of human and environmental exposure to the substances, constituting a significant new use. Based on consideration of the statutory factors discussed herein, EPA has determined the following uses are significant new uses:

- Manufacturing (including importing) or processing of LCPFAC chemical substances listed in the list of LCPFAC chemical substances in Unit II. for any use that is no longer ongoing after December 31, 2015.
- Manufacturing (including importing) or processing of PFOA or its salts for any use not ongoing as of the date on which the proposed rule was published (Ref. 1).
- Manufacturing (including importing) or processing of all other LCPFAC chemical substances for any use not ongoing as of January 21, 2015, the date on which the proposed rule was published (Ref. 1).

EPA believes any new use of certain LCPFAC chemical substances as part of a surface coating of an article could increase the duration and magnitude of human and environmental exposure to the chemical substances, as discussed in the March 3, 2020, supplement to proposed SNUR (Ref. 2). Based on these considerations, EPA has determined that: Importing LCPFAC chemical substances listed in the list of LCPFAC chemical substances in Unit II. and PFOA or its salts (See Unit I. for examples of PFOA salts) as part of a surface coating of an article, for uses not ongoing as of the date on which the 2015 proposed rule was published (Ref. 1), constitutes a significant new use and warrants making the exemption at 40 CFR 721.45(f) inapplicable to importers of such articles.

Evidence supports that there is a reasonable potential for exposure to the chemical substances subject to this SNUR through their importation as part of a surface coating of an article. EPA should have an opportunity to review such uses before they can resume. Persons subject to this SNUR are required to notify EPA at least 90 days prior to commencing manufacture (including import) or processing of the chemical substances for the new use. This required notification provides EPA with the opportunity to evaluate any intended significant new use of the regulated chemical substances and, if necessary, an opportunity to protect against potential unreasonable risks.

EPA has determined that the import of fluoropolymer dispersions and emulsions and articles containing fluoropolymers in articles is not a significant new use because, at the time of the 2015 proposed rule, EPA believed this use to be ongoing and did not propose to include this use in the SNUR. Ongoing uses cannot be subject to a SNUR. Since proposing the SNUR in 2015, EPA has received comment that the use fluoropolymer dispersions and emulsions made with PFOA has ceased. Because EPA did not propose and take comment on lifting the exemption for the import of fluoropolymer dispersions and emulsions, and fluoropolymers as part of articles, EPA has not included it in this final rule. At this time, EPA is not making inapplicable any of the standard exemptions at 40 CFR 721.45 for fluoropolymer dispersions and emulsions, and fluoropolymers as part of articles. Yet, EPA may issue a future SNUR on the manufacture and processing of fluoropolymer dispersions and emulsions and articles containing fluoropolymers.

In a previous rule (78 FR 62443, October 22, 2013; FRL–9397–1), EPA designated all uses of the perfluoroalkyl sulfonate chemicals identified in 40 CFR 721.9582 as significant new uses, except the ongoing uses specified in 40 CFR 721.9582 (a)(3) through (a)(5). The Agency has determined that the manufacture (including import) and processing of any of the perfluoroalkyl sulfonate chemical substances subject to this rule have been discontinued, including the importing of these chemical substances as part of carpets. EPA believes any new use of perfluoroalkyl sulfonate chemicals substances as part of carpets could increase the duration and magnitude of human and environmental exposure to the chemical substances, as discussed in the January 21, 2015, proposed SNUR (Ref. 1). The category of articles subject to the SNUR has not been modified since the 2015 proposed rule; therefore, EPA does not need to modify any of its considerations in order to make the finding under section 5(a)(5). Based on the information provided in the 2015 proposed SNUR, EPA affirmatively finds under TSCA section 5(a)(5) that notification for import is justified by the reasonable potential for exposure to perfluoroalkyl sulfonate chemicals as part of carpets. Based on these

considerations, EPA has determined that: Importing perfluoroalkyl sulfonate chemicals identified in 40 CFR 721.9582 as part of carpets, which were not ongoing as of January 21, 2015, the date on which the proposed rule was published (Ref. 1), constitutes a significant new use and warrants making the exemption at 40 CFR 721.45(f) inapplicable to importers of carpets.

V. Applicability of the General Provisions

The general provisions for SNURs appear under 40 CFR part 721, subpart A, and they apply to this rule except as modified by the rule. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. However, EPA is making the exemption at 40 CFR 721.45(f) inapplicable to persons who import LCPFAC chemicals substances listed in the list of LCPFAC chemical substances in Unit II. and PFOA or its salts as part of a surface coating of an article (See Unit I. for examples of PFOA salts). Additionally, EPA is making the exemption at 40 CFR 721.45(f) inapplicable to persons who import perfluoroalkyl sulfonate chemicals substances listed in 40 CFR 721.9582 as part of carpets. As a result, persons subject to the provisions of this final rule would not be exempt from submitting a significant new use notice if they import those LCPFAC chemical substances, including PFOA or its salts, as part of a surface coating of an article or if they import perfluoroalkyl sulfonate chemical substances as part of carpets. However, EPA is retaining the exemption at 40 CFR 721.45(f) for persons who process chemical substances as part of an article because existing stocks of articles may still contain LCPFAC or perfluoroalkyl sulfonate chemical substances. Provisions relating to user fees appear at 40 CFR part 700. Additionally, TSCA, as amended by the Lautenberg Act, makes the provision at 40 CFR 721.45(h) inapplicable.

According to 40 CFR 721.1(c), persons subject to SNURs must comply with the same notice requirements and EPA regulatory procedures as described in 40 CFR part 720 for submitters of Premanufacture Notices (PMNs) under TSCA section 5(a)(1)(A), at least to the extent there is no conflict with the provisions at part 721. In addition, the information submission requirements of TSCA sections 5(b) and 5(d)(1) and the exemptions authorized by TSCA sections 5(h)(1), (h)(2), (h)(3), and (h)(5) apply to SNURs.

Once EPA receives a SNUN, EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury or take such other regulatory action as is required by TSCA section 5(a)(3) before the manufacturing (including importing) or processing for the significant new use can commence. If EPA determines that the significant new use is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's finding.

Persons who export or intend to export a chemical substance identified in the proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret TSCA section 12(b) appear at 40 CFR part 707, subpart D. In accordance with 40 CFR 707.60(b), this final SNUR does not trigger notice of export for articles. Persons who import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, codified at 19 CFR 12.118 through 12.127; see also 19 CFR 127.28. Such persons must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, including any SNUR requirements. The TSCA section 13 import certification requirement applies to articles containing a chemical substance or mixture if so required by the Administrator by a specific rule under TSCA. At this time, EPA is not requiring import certification for these chemical substances as part of articles. The EPA policy on import certification appears at 40 CFR part 707, subpart B.

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

As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376) (FRL–3658–5) (Ref. 30), EPA has decided that the intent of TSCA section 5(a)(1)(B) best served by designating a use as a significant new use as of the date of publication of the proposed rule (including the posting of a pre-publication copy of the rule) rather than as of the effective date of the final rule. If uses begun after publication of the proposed rule were considered ongoing rather than new, it would be difficult for EPA to establish significant new uses, because a person could defeat the SNUR by initiating the proposed significant new use before the rule became final, and then argue that the use was ongoing as of the effective date of the final rule. Thus, persons who began commercial manufacture or processing of LCPFAC and perfluoroalkyl sulfonate chemical substances after the proposal was published on January 21, 2015, must cease such activity before the effective date of this final rule. These persons would have to comply with all applicable SNUR notice requirements and wait to resume the commercial manufacture or processing of the subject chemical substances until EPA has made a determination. Uses arising after the publication of the proposed rule are distinguished from uses that exist at publication of the proposed rule. The former would be new uses, the latter would be ongoing uses, except that uses that are ongoing as of the publication of the proposed rule would not be considered ongoing uses if they have ceased by the date of issuance of a final rule. Public commenters on the proposed rule and the supplement to the proposal identified ongoing uses, which have been captured in the Response to Comments in Unit XII. (Ref. 3) and are not covered by this SNUR. Ongoing uses cannot be subject to a SNUR.

VII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not usually require developing new information (*e.g.,* generating test data) before submission of a SNUN; however, there is an exception: development of information is required where the chemical substance subject to the SNUR is also subject to a rule, order, or consent agreement under TSCA section 4 (see TSCA section 5(b)(1)). Also pursuant to TSCA section 4(h), which pertains to reduction of testing of vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies or NAMs), if available, to generate any recommended test data. EPA encourages dialogue with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h).

In the absence of a TSCA section 4 test rule covering the chemical substance, persons are required to submit only information in their possession or control and to describe any other information known to or reasonably ascertainable by them (15 U.S.C. 2604(d); 40 CFR 721.25, and 40 CFR 720.50). However, as a general matter, EPA recommends that SNUN submitters include information that would permit a reasoned evaluation of risks posed by the chemical substance

during its manufacturing (including importing), processing, use, distribution in commerce, or disposal. EPA encourages persons to consult with the Agency before submitting a SNUN. As part of this optional pre-notice consultation, EPA would discuss specific information it believes may be useful in evaluating a significant new use.

Submitting a SNUN that does not itself include information sufficient to permit a reasoned evaluation may increase the likelihood that EPA will either respond with a determination that the information available to the Agency is insufficient to permit a reasoned evaluation of the health and environmental effects of the significant new use or, alternatively, that in the absence of sufficient information, the manufacturing (including importing), processing, distribution in commerce, use, or disposal of the chemical substance may present an unreasonable risk of injury to health or the environment.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs and define the terms of any potentially necessary controls if the submitter provides detailed information on human exposure and environmental releases that may result from the significant new uses of the chemical substance.

VIII. SNUN Submissions

EPA recommends that submitters consult with the Agency prior to submitting a SNUN to discuss what information may be useful in evaluating a significant new use. Discussions with the Agency prior to submission can afford ample time to conduct any tests that might be helpful in evaluating risks posed by the chemical substance. According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 721.25 and 40 CFR 720.40. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

IX. Economic Analysis

A. SNUNs

EPA has evaluated the potential costs of establishing SNUR reporting requirements for potential manufacturers and processors of the chemical substance included in this final rule (Ref. 4). In the event that a SNUN is submitted, average costs are estimated at approximately $23,000 per SNUN submission for large business submitters and about $10,000 for small business submitters. These estimates include the cost to prepare and submit the SNUN (averaging about $7,100), and the payment of a user fee. Businesses that submit a SNUN would be subject to either a $16,000 user fee required by 40 CFR 700.45(c)(2)(ii), or, if they are a small business, a reduced user fee of $2,800 (40 CFR 700.45(c)(1)(ii)). The costs of submission of SNUNs will not be incurred by any company unless a company decides to pursue a significant new use as defined in this final SNUR. EPA's complete economic analysis is available in the public docket for this rule (Ref. 4).

B. Export Notification

Under TSCA section 12(b) and the implementing regulations at 40 CFR part 707, subpart D, exporters must notify EPA if they export or intend to export a chemical substance or mixture for which, among other things, a rule has been proposed or promulgated under TSCA section 5. For persons exporting a substance that is the subject of a SNUR, a one-time notice to EPA must be provided each calendar year for the first export or intended export to a particular country. The total costs of export notification will vary by chemical, depending on the number of required notifications (*i.e.,* the number of countries to which the chemical is exported).

C. Import of Chemical Substances as Part of an Article

In making inapplicable the exemption relating to persons who import certain LCPFAC chemical substances as part of the surface coating of an article, this action may affect firms that plan to import types of articles that may contain the subject chemical substances in a surface coating. This is because while some firms have an understanding of the contents of the articles they import other firms do not. EPA acknowledges that importers of articles may have varying levels of knowledge about the chemical content of the articles that they import. These parties may need to become familiar with the requirements of the rule. And while not required by the SNUR, these parties may take additional steps to determine whether the subject chemical substances are part of the articles that they are considering for import. This determination may involve activities such as gathering information from suppliers along the supply chain, and/or testing samples of the article itself. Costs vary across the activities chosen and the extent of familiarity a firm has regarding the articles it imports. Cost ranges are presented in Understanding the Costs Associated with Eliminating Exemptions for Articles in SNURs (Ref. 31). Based on available information, EPA believes that article importers that choose to investigate their products will incur costs at the lower end of the ranges presented in the Economic Analysis. For those companies choosing to undertake actions to assess the composition of the articles they import, EPA expects that importers will take actions that are commensurate with the company's perceived likelihood that a chemical substance might be a part of an article for the significant new uses identified in Units II. and III., and the resources it has available. Example activities and their costs are provided in the accompanying Economic Analysis of this final rule (Ref. 4).

X. Alternatives

Before proposing this SNUR, EPA considered the following alternative regulatory action: Promulgate a TSCA section 8(a) Reporting Rule.

Under a TSCA section 8(a) rule, EPA could, among other things, generally require persons to report information to the Agency when they manufacture (including import) or process a chemical substance for a specific use or any use. However, for LCPFAC and perfluoroalkyl sulfonate chemical substances, the use of TSCA section 8(a) rather than SNUR authority would have several limitations. First, if EPA were to require reporting under TSCA section 8(a) instead of TSCA section 5(a), that action would not ensure that EPA receives timely advance notice of future manufacturing (including importing) or processing of LCPFAC chemical substances (including as part of an article and components thereof) for new uses that may produce changes in human and environmental exposures. Nor would action under 8(a) ensure that an appropriate determination (relevant to the risks of such manufacturing (including importing) or processing) has been issued prior to the commencement of such manufacturing (including importing) or processing. Furthermore, a TSCA section 8(a) rule would not ensure that manufacturing (including importing) or processing for the significant new use cannot proceed until EPA has taken the required actions under TSCA sections 5(e) or 5(f) in the event that EPA determines any of the following: (1) That the significant new

use presents an unreasonable risk under the conditions of use (without consideration of costs or other non-risk factors, and including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by EPA); (2) that the information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects of the significant new use; (3) that in the absence of sufficient information, the manufacture (including import), processing, distribution in commerce, use, or disposal of the substance, or any combination of such activities, may present an unreasonable risk (without consideration of costs or other non-risk factors, and including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by EPA); or (4) that there is substantial production and sufficient potential for environmental release or human exposure (as defined in TSCA section 5(a)(3)(B)(ii)(II)).

In view of the health concerns about LCPFAC and perfluoroalkyl sulfonate chemical substances if used for a significant new use, EPA believes that a TSCA section 8(a) rule for this substance would not meet EPA's regulatory objectives at this time.

XI. Scientific Standards, Evidence, and Available Information

EPA has used scientific information, technical procedures, measures, methods, protocols, methodologies, and models consistent with the best available science, as applicable. These information sources supply information relevant to whether a particular use would be a significant new use, based on relevant factors including those listed under TSCA section 5(a)(2). Consistent with EPA's past practice for issuing SNURs under TSCA section 5(a)(2), EPA's decision to promulgate a SNUR for a particular chemical use need not be based on an extensive evaluation of the hazard, exposure, or potential risk associated with that use; as such, the January 2015 proposed rule (Ref. 1), the 2020 supplemental proposal (Ref. 2), and this final rule are not based on an evaluation of expected risks.

The clarity and completeness of the data, assumptions, methods, quality assurance, and analyses employed in EPA's decision are documented, as applicable and to the extent necessary for purposes of the January 2015 proposed rule, the 2020 supplemental proposal, and this final rule, in Unit III. and in the references cited throughout the three preambles. Considering the extent to which the various information, procedures, measures, methods, protocols, methodologies or models used in EPA's decision have been subject to independent verification or peer review, EPA believes that their use is appropriate in this rule. EPA recognizes, based on the available information, that there is variability and uncertainty in whether any particular significant new use would actually present an unreasonable risk. For precisely this reason, EPA is proposing to require notice and review for these uses at such time as they are known more definitively.

XII. Response to Public Comment

The Agency reviewed and considered all comments received related to the 2015 proposed rule (Ref. 1) and the 2020 supplement to the proposed rule (Ref. 2). Copies of all comments are available in the docket for this action (EPA–HQ–OPPT–2013–0225). Responses to all comments received are in the document titled: ''Response to Comments on the Proposed Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances Significant New Use Rule (SNUR)'' (Ref. 3), which is also available in the docket. Six primary comments, covering the majority of the issues raised by the comments received, are included below.

1. Comment: Several commenters claimed ongoing uses of LCPFAC, PFOA, or perfluoroalkyl sulfonate chemical substances and requested that EPA modify the proposed SNUR to specifically recognize and exclude from the definition of 'significant new uses' certain ongoing activities that do not appear to have been previously identified by the Agency to be ongoing. Some commenters reiterated ongoing uses that EPA had already identified as ongoing. One commenter suggested that EPA should define ongoing uses ''in a manner that is not company specific.'' Several commenters requested that EPA designate ''use in semiconductor processing, manufacturing or semiconductor component assembly'' as not a significant new use for LCPFAC chemical substances and maintain the exemption under 40 CFR 721.45(f) for all on-going uses in the semiconductor industry. Two commenters asked EPA to exempt medical supplies or other equipment that may be used during the COVID–19 public health emergency. See the Response to Comment document (Ref. 3) for the specific Docket IDs for these comments.

Response: EPA reviewed all ongoing use claims, requested additional information from commenters to clarify the claims, and has recognized and excluded from the definition of 'significant new uses' certain ongoing activities for certain chemicals. Exclusions from the definition of 'significant new uses' are included with the regulation amendment at 40 CFR 721.10536(b)(5).

While reviewing ongoing use claims, EPA found chemical substances that did not fall within the scope of the SNUR. Additionally, during communication with commenters that supplied ongoing use claims, EPA discovered that in some instances commenters had ceased the use of their reported chemical substance. Accordingly, EPA has not recognized and excluded from the definition of 'significant new uses' ongoing use claims that fall outside the scope of the SNUR, have ceased by the date of issuance of the final rule, or were unable to be substantiated.

During the comment response process, EPA reached out to one commenter who was unable to supply substantiation of their claim, yet stated that their ongoing use claim was captured in communication from the supplier directly with EPA. As such, their ongoing use claim was reviewed and has been addressed in the comment submitted by commenter's supplier.

With regards to the use of LCPFAC chemical substances by the semiconductor industry, it has not been EPA's practice to identify an industry as a whole when recognizing ongoing uses. Commenters stated that LCPFAC chemical substances used in the semiconductor industry may be present in surfactants, coatings, seals, gaskets, hoses, motors, electrical wiring, tools, robots, parts, ancillary equipment, and other components but were unable to provide specific information such as a Safety Data Sheet or other documentation to support their claim. EPA was only able to verify ongoing uses within the semiconductor industry in a subset of the claims made, which have been recognized in 40 CFR 721.10536.

During public comment for the supplemental rule (Ref. 2), EPA received two comments stating ongoing uses of LCPFAC chemical substances used in medical supplies, medical equipment, and for pharmaceutical or biopharmaceutical research applications that may be important to the COVID–19 pandemic response. EPA agrees that ongoing uses, especially ones critical to COVID–19 pandemic response, should not be restricted by this SNUR. TSCA section 3(2)(B) excludes devices regulated under the Federal Food, Drug, and Cosmetic Act from the definition of a chemical substance under TSCA. Gloves (21 CFR 880.6250), gowns (21 CFR 880.6265), and masks are all listed

separately as devices in FDA's regulations and such devices would not be covered by this SNUR. However, it is important to note that other face masks, gloves, and personal protective equipment that are marketed to the general public for general, non-medical purposes, would be covered by the SNUR if the use is not ongoing. As with other verified ongoing uses, EPA has also exempted the ongoing uses of certain LCPFAC chemical substances used in pharmaceutical and biopharmaceutical research from this rule. EPA, however, has not broadly exempted all uses of LCPFAC chemical substances used in pharmaceutical and biopharmaceutical research because only a select number of applications are ongoing.

When possible, EPA has made explicit chemical and use specific exclusions from the definition of 'significant new uses' rather than broad industry or categorical exclusions. As reflected by the exclusions in the final rule, ongoing activities include manufacturing (including import) or processing of these chemical substances. EPA will continue to work with industry to phase out LCPFAC, PFOA and its salts, and perfluoroalkyl sulfonate chemical substances and will review the need to promulgate future rules as necessary. As a result of public comments received, EPA recognizes manufacture, import, or processing of certain LCPFAC chemical substances for the following uses as ongoing:

- Use of LCPFAC chemical substances for use in an antireflective coating, photoresists, or surfactant for use in photomicrolithography and other process to produce semiconductors or similar components of electronic or other miniaturized devices.
- Use of 2-Propenoic acid, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl ester (CASRN 27905–45–9) as a coating or component of a hydrophobic and/or oleophobic coating or barrier applied to manufactured articles or component of articles using an energy source or plasma deposition methods, which include a pulse deposition mode. Examples of such articles include: electronic devices and components thereof, medical consumables and bio-consumables, filtration devices and filtration materials, clothing, footwear and fabrics.
- Use of Silane, trichloro (3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl)-(CASRN 78560–44–8) as a surface treatment to make low refractive index resin for optical applications; surface treatment for minerals, particles and inorganic surfaces for hydrophobicity; and monomer to make specialty resins hydrophobic.
- Use of Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro- (CASRN 335–67–1) as a surfactant and coating as part of the following articles: Stickers, labels, and parts to which those stickers and labels are attached.
- Use of 1-Propanesulfonic acid, 2-methyl-, 2-[[1-oxo-3-[(.gamma.-.omega.-perfluoro-C4–16-alkyl)thio]propyl]amino] derivs., sodium salts (CASRN 68187–47–3); Thiols, C8–20, .gamma.-.omega.-perfluoro, telomers with acrylamide (CASRN 70969–47–0);or Perfluorinated polyamine (generic) (ACC274147) as a component in fire extinguishing agent.
- Use of Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro- (CASRN 335–67–1); Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, sodium salt (1:1) (CAS No. 335–95–5); or Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, ammonium salt (1:1) (CASRN 3825–26–1) in automotive articles, both in factory assembly and replacement parts.
- Use of Poly(difluoromethylene), .alpha.,.alpha.′-[phosphinicobis(oxy-2,1-ethanediyl)]bis[.omega.-fluoro-, ammonium salt (1:1) (CASRN 65530–70–3); Poly(difluoromethylene), .alpha.-fluoro-.omega.-[2-(phosphonooxy)ethyl]-, ammonium salt (1:1) (CASRN 65530–71–4); or Poly(difluoromethylene), .alpha.-fluoro-.omega.-[2-(phosphonooxy)ethyl]-, ammonium salt (1:2) (CAS No. 65530–72–5) in the manufacturing of architectural coatings or wood coatings, at a maximum concentration of 0.1% by weight.
- Use of Poly(difluoromethylene), .alpha.,.alpha.′-[phosphinicobis(oxy-2,1-ethanediyl)]bis[.omega.-fluoro-, ammonium salt (1:1) (CASRN 65530–70–3); Poly(difluoromethylene), .alpha.-fluoro-.omega.-[2-(phosphonooxy)ethyl]-, ammonium salt (1:1) (CASRN 65530–71–4); or Poly(difluoromethylene), .alpha.-fluoro-.omega.-[2-(phosphonooxy)ethyl]-, ammonium salt (1:2) (CAS No. 65530–72–5) in the manufacturing of industrial primer coatings for non-spray applications to metal by coil coating application, at a maximum concentration of 0.01% by weight.
- Use of Alcohols, C8–14, .gamma.-.omega.-perfluoro (CASRN 68391–08–2) in the manufacture of coatings and finishes for a variety of textile, leather, and hard surface treatments, and in the manufacture of wetting agents.
- Use of Poly(oxy-1,2-ethanediyl), .alpha.-hydro-.omega.-hydroxy-, ether with .alpha.-fluoro-.omega.-(2-hydroxyethyl)poly(difluoromethylene) (1:1) (CASRN 65545–80–4) in water-based inks.
- Use of Poly(difluoromethylene), .alpha.-[2-[(2-carboxyethyl)thio]ethyl]-.omega.-fluoro-, lithium salt (1:1) (CASRN 65530–69–0) in photo media coatings.
- Use of Ethanol, 2,2′-iminobis-, compd. with .alpha.-fluoro-.omega.-[2-(phosphonooxy)ethyl] poly(difluoromethylene) (2:1) (CASRN 65530–63–4); Ethanol, 2,2′-iminobis-, compd. with .alpha.,.alpha.'-[phosphinicobis(oxy-2,1-ethanediyl)]bis[.omega.-fluoropoly(difluoromethylene)] (1:1) (CASRN 65530–64–5); or Ethanol, 2,2′-iminobis-, compd. with .alpha.-fluoro-.omega.-[2-(phosphonooxy)ethyl]poly (difluoromethylene) (1:1) (CASRN 65530–74–7) in paints and coatings, grouts, and sealers.
- Use of Poly(oxy-1,2-ethanediyl), .alpha.-hydro-.omega.-hydroxy-, ether with .alpha.-fluoro-.omega.-(2-hydroxyethyl)poly(difluoromethylene) (1:1) (CASRN 65545–80–4) in paints, coatings, ink jet inks, and ink masterbatch.
- Use of 1-Propanesulfonic acid, 2-methyl-, 2-[[1-oxo-3-[(.gamma.-.omega.-perfluoro-C4–16-alkyl)thio]propyl]amino] derivs., sodium salts (CASRN 68187–47–3) in adhesives.

2. Comment: Several commenters believe that the lack of LCPFAC CAS numbers and the generic identification of PFOA and its salts provide insufficient information for entities to understand what chemicals the rule encompasses. They believe that EPA must define the universe of covered chemicals that would be subject to the regulation. See the Response to Comment document (Ref. 3) for the specific Docket IDs for these comments.

- *Response:* TSCA section 26(c) expressly recognizes that an action may be taken with respect to a category of chemical substances or mixtures based on chemical structure, and EPA believes the most precise way to identify the chemicals subject to this SNUR is through the chemical structure definition. Downstream customers should have sufficient information from suppliers (*i.e.,* CAS registry number and unique chemical identity) to generate the specific structure for any potentially reportable substance and compare to the LCPFAC category definition.

As a convenience to the regulated community, EPA has made available in the public docket an illustrative list of

chemical substances subject to the rule (Ref. 32). As part of that list, EPA has provided specific examples of chemicals that meet the various components of the LCPFAC category definition. The list is not exhaustive, but rather provides a guide to help readers determine whether this rule applies to them.

Additionally, Congress added certain active LCPFAC chemical substances to the Toxics Release Inventory (TRI) list. These chemicals were added to the TRI list under section 7321(b)(1) of the National Defense Authorization Act of fiscal year 2020. TRI added both LCPFAC and perfluoroalkyl sulfonate chemical substances that were identified as active in commerce on the TSCA inventory that was published in February 2019. While this list includes only LCPFAC chemicals on the active inventory, it may assist the regulated community in determining whether or not a given chemical substance is subject to this rule. The list can be found on EPA's website and a citation is included in Unit XIII. (Ref. 33).

3. Comment: Several commenters provided comment on whether EPA could adopt a de minimis threshold for determining ''reasonable potential for exposure'' and if so, how that de minimis threshold could be established. Some comments supported the establishment of a threshold while others opposed the idea of a de minimis threshold. One commenter recommended a standard default de minimis threshold of 0.1% for articles for all SNURs. One commenter did not have an opinion on the establishment of a threshold or as a de minimis exemption but did state that they were ''interested in EPA establishing a characterization of the 'reasonable potential for exposure' what might be 'reasonably ascertainable' with specific criteria for determining this.'' See the Response to Comment document (Ref. 3) for the specific Docket IDs for these comments.

Response: EPA appreciates the comments received. EPA is not establishing a de minimis threshold for determining ''reasonable potential for exposure'' in this final rule. EPA will, however, continue to engage with interested stakeholders on this issue and continue to consider whether guidance for applying this standard may be appropriate in the future, whether as a general matter or, for instance, as applied to specific categories of substances or potential exposures.

As a general proposition, EPA believes that TSCA section 5(a)(5) actions should be considered on a case-by-case basis. Each time EPA considers requiring notification under TSCA section 5(a)(5), EPA will have to consider whether the ''reasonable potential for exposure'' to the chemical substance through the article or category of articles justifies notification. Since the use designated as a significant new use does not currently exist, EPA is deferring a detailed consideration of potential exposures related to that use until there is a specific condition of use and data to review. If EPA receives a SNUN, EPA would evaluate the potential releases from the article and with information specific to that article.

TSCA section 5(a)(5) does not establish an explicit threshold that an exposure must meet in order to be considered a ''reasonable potential for exposure'' or to ''justify notification.'' Rather, TSCA section 5(a)(5) states: ''The Administrator may require notification under this section for the import or processing of a chemical substance as part of an article or category of articles under paragraph (1)(A)(ii) if the Administrator makes an affirmative finding in a rule under paragraph (2) that the reasonable potential for exposure to the chemical substance through the article or category of articles subject to the rule justifies notification.'' If there is evidence that a chemical substance is or may be released from an article such that there is a reasonable potential of exposure to the chemical substance, EPA thinks the Agency can reasonably find the statutory criterion to be met in most or all cases.

For this final rule, EPA believes that the reasonable potential for exposure was adequately demonstrated by the studies cited in both the 2015 proposed rule (Ref. 1) and the 2020 supplement to the proposed rule (Ref. 2). The studies cited during the rulemaking process represent the exposures that could result from the significant new uses subject to the SNUR. In showing that releases have been documented from articles using LCFAC chemical substances as a surface coating (Refs. 21, 22, 23, 24, and 25), EPA asserts that the statutory standard has been met to show that there is reasonable potential for exposure from these significant new uses. EPA also concludes, on the record before it, that this reasonable potential for exposure justifies notification.

4. Comment: Several commenters provided comment on whether or not the Agency should include a safe harbor provision for importers of articles that can demonstrate their use was ongoing prior to the effective date of this rule. Some comments supported the establishment of a safe harbor provision while others opposed the idea of a safe harbor provision. One commenter recommended that EPA ''establish a rebuttable presumption that a SNUN is not required for an imported article if the foreign supplier of that article certifies in writing that the article (including all components of the article) was not manufactured using any of the substances identified in the Supplemental Proposal.'' Another commenter asked that EPA allow importers to rely on supplier/manufacture certifications for purposes of compliance. Related to the idea of a safe harbor provision, several commenters emphasized complex supply chains that comprise many industries and the difficulties this would pose when determining if an article contains a subject chemical substance. See the Response to Comment document (Ref. 3) for the specific Docket IDs for these comments.

Response: EPA appreciates the comments received. EPA is not establishing a safe harbor provision in this final rule. EPA makes every effort to notify manufacturers and processors of chemical substances that may be subject to a given rule, so that they may participate in the regulatory process. EPA provided notice to importers in the 2015 proposed rule and again provided notice of the proposed requirements in the 2020 supplemental proposal. A safe harbor approach undermines the regulatory process for what uses are allowed by permitting a manufacturer to claim a use was ongoing at the time the SNUR was issued. For this final rule, EPA does not believe there should be a safe-harbor provision for uses not identified as ongoing uses in the SNUR, particularly since notice of the requirements of this action were provided five years ago. As part of the public comment period for the proposed rule and supplemental to the proposed rule, EPA received comments of ongoing uses of LCPFAC chemical substances as part of a surface coating on articles and has recognized those uses as ongoing because ongoing uses are not subject to SNURs. Similarly, a general safe-harbor provision may provide incentives for importers to not submit comments to EPA during the public comment period regarding ongoing uses not recognized in a proposed rule, because an importer who fails to submit such comments, and thus to acknowledge such uses, would be more easily able to claim that it did not realize the subject chemical substance was in its product. An importer could potentially use a safe harbor provision to justify a lack of involvement in a rule making because the importer would have the opportunity to identify chemicals later.

The importer could avoid participation early on because he could wait to see if anyone else submitted comments and even if there are no comments on his chemical use, he has the alternative to use the safe harbor to challenge the rule.

While EPA acknowledges that imported articles may have a complex supply chain, the most effective method to ensure that certain LCPFAC chemical substances in this SNUR are not present in the surface coating of imported articles is to encourage importers to know with specificity the contents of what they are importing and to work with their foreign manufacturers to ensure that an article does not contain certain LCPFAC chemical substances in surface coatings.

Even though 19 CFR 12.119 allows EPA to establish TSCA section 13 import certification requirements for chemicals in articles, EPA did not propose to require TSCA section 13 import certification for the subject chemical substances when part of articles. Considering the use of these chemicals in articles covered by this SNUR are no longer ongoing, requiring TSCA section 13 import certification seems an unnecessary requirement to include in the SNUR. This is consistent with EPA's past practice of making the exemption at 40 CFR 721.45(f) inapplicable without also requiring import certification or export notification for these chemical substances as part of articles (40 CFR 721.2800; 40 CFR 721.10068). With or without an import certification requirement, it is the importer that is ''responsible for [e]nsuring that chemical importation complies with TSCA just as domestic manufacturers are responsible for [e]nsuring that chemical manufacture complies with TSCA.'' 40 CFR 707.20(b)(1).

EPA is not establishing a rebuttable presumption for this rule as one commenter suggested. EPA, however, may consider the factors discussed in EPA's import policy that may obviate or mitigate penalties for violations with the import of articles, as described at 40 CFR 707.20(c)(1)(iii). The language at 40 CR 707.20(c)(1)(iii) states that ''[. . .] EPA realizes that sometimes importers may not have actual knowledge of the chemical composition of imported mixtures. In these cases, the importer should attempt to discover the chemical constituents of the shipment by contacting another party to the transaction (*e.g.,* his principal or the foreign manufacturer). This person may be able to identify the components of the mixture, or at least state that the substances comply with TSCA. The greater the effort an importer makes to learn the identities of the imported substances and their compliance with TSCA, the smaller his chance of committing a violation by importing a noncomplying shipment. If a shipment is ultimately determined to have violated TSCA, the good faith efforts of the importer to verify compliance, as evidenced by documents contained in his files, may obviate or mitigate the assessment of a civil penalty under section 16 of TSCA.''

EPA recognizes the complexities of imports. EPA will take into consideration compliance certification and other documents demonstrating that the importer relied on the supplier. EPA will also continue to engage with interested stakeholders on how to ensure compliance with this and future rules. Additionally, EPA maintains the TSCA Hotline and responds to questions from industry. responds to industry questions.

5. Comment: Several commenters raised concern over the issue of impurities, stating that the impurity levels of PFOA and its salts cannot be completely eliminated. Additionally, commenters reported that fluorinated substances that do not fall into the scope of the SNUR may degrade into in-scope LCPFAC substances. One commenter stated that their imported article contained residual LCPFAC from the use of polytetrafluoroethylene (PTFE) production, outside the US; the commenter further indicated that their PTFE supplier is currently working to develop an LCPFAC-free product, but at this time the use is ongoing. Also, a comment stated that it is not possible for end users to determine the presence of a given chemical substance, making it difficult for determining ''intended use'' vs. ''impurity''.

As a result of the impurity concerns, multiple commenters requested that EPA require suppliers to provide Certificate of Compliance to importers. One comment suggested that the SNUR include all fluoropolymer resins ''made with'' LCPFACs and exempt such products ''made without'' LCPFACs, even if such products may nevertheless bear trace amounts of LCPFACs due to cross-contamination, to encourage importers to demonstrate compliance by obtaining Certificates of Compliance from their overseas suppliers. See the Response to Comment document (Ref. 3) for the specific Docket IDs for these comments.

Response: To the extent the chemical substance subject to the SNUR is only ''unintentionally present'' at the point of foreign manufacture, it is already exempt from reporting by the importer as an imported impurity. See 40 CFR 721.45(d). As such, importers are not required to submit a SNUN for or report on a substance based simply on that substance's presence as an impurity (*i.e.,* a chemical substance is unintentionally present with another chemical substance, 40 CFR 720.3(m)). Additionally, the impurity exemption at 40 CFR 721.45(d) includes domestic manufacture and processing.

EPA is aware of the issues related to perfluorinated chemical impurities and polymer degradation. Given that the Agency did not propose to require a certification procedure, it does not agree that a certification procedure should be specified and incorporated into the final rule. However, the Agency continues to study this issue and has not ruled out a later proposal to require import certification for these chemical substances as part of articles.

With or without an import certification requirement, it is the importer that is ''responsible for [e]nsuring that chemical importation complies with TSCA just as domestic manufacturers are responsible for [e]nsuring that chemical manufacture complies with TSCA.'' 40 CFR 707.20(b)(1).

With regards to providing an additional exemption to importers on the basis of being unable to determine the presence of a given chemical substance, or an inability to determine whether a use is ''intended '' vs. an ''impurity'', any exemption would create a safe-harbor for importers based on lack of knowledge, thus creating incentives for foreign suppliers to deliberately withhold information from importers. This could greatly reduce the efficacy of this SNUR.

6. Comment: Several commenters requested that EPA consider promulgating TSCA section 6(a) rules to directly restrict perfluoroalkyl and polyfluoroalkyl substances (PFAS) and complete planned development of a detailed assessment to determine if PFAS chemical substances presents an unreasonable risk. See the Response to Comment document (Ref. 3) for the specific Docket IDs for these comments.

Response: TSCA section 6(a) states that ''[i]f the Administrator determines in accordance with subsection (b)(4)(A) that the manufacture, processing, distribution in commerce, use, or disposal of a chemical or mixture, or that any combination of such activities, presents an unreasonable risk of injury to health or the environment'' the Administrator shall take action under TSCA section 6(a). While EPA appreciates the commenters request to promulgate a rule in accordance with this provision, EPA is not doing so at

this time. Rather, at this time EPA believes that a rule under TSCA section 5(a)(2), in conjunction with the 2010/2015 PFOA Stewardship Program, is an effective method to protect human health and the environment from any risks posed by LCPFAC and perfluoroalkyl sulfonate chemical substances.

Through the 2010/2015 PFOA Stewardship Program, a voluntary risk reduction program, eight major fluoropolymer and telomer manufacturers and processors committed to voluntarily work toward a phase-out of LCPFAC chemical substances (Ref. 34). As such, the reduced supply of long-chain perfluorinated chemicals has led industries to more quickly transition to alternative chemical substances, as noted in both public comments and industry communication. For persons subject to this SNUR, they are required to notify EPA at least 90 days prior to commencing manufacture or processing of these chemical substances. This required notification provides EPA with the opportunity to evaluate any significant new use of the regulated perfluorinated chemical substances and, if necessary, protect against potential unreasonable risks. EPA continues to review the manufacturing, import, and processing of the ongoing uses of these substances of concern. If EPA has reason to believe that either a use of these chemical substances is no longer ongoing or that a TSCA section 6(a) rule would better regulate LCPFAC and perfluoroalkyl sulfonate chemical substances, EPA will consider taking further regulatory action.

XIII. References

The following is a list of the documents that are specifically referenced in this document. The docket includes these documents, as well as other information considered by EPA that are not listed below, including documents that are referenced within the documents that are included in the docket. For assistance in locating docket items, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances; Significant New Use Rule. Proposed Rule. **Federal Register**. 80 FR 2885, January 21, 2015 (FRL–9915–63).
2. EPA. Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances; Significant New Use Rule. Supplemental Proposal. **Federal Register**. 85 FR 12479, March 3, 2020 (FRL–10003–21).
3. EPA. Response to Comments on the Proposed Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances Significant New Use Rule (SNUR). June 19, 2020.
4. EPA. Economic Analysis of the Final Significant New Use Rule for Perfluoroalkyl Sulfonates and Long-Chain Perfluoroalkyl Carboxylate Chemical Substances. June 19, 2020.
5. EPA. Long-Chain Perfluorinated Chemicals Action Plan. December 30, 2009. Accessed at: *https://www.epa.gov/sites/production/files/2016-01/documents/pfcs_action_plan1230_09.pdf.*
6. EPA. Perfluoroalkyl Sulfonates; Significant New Use Rule; Final Rule. **Federal Register**. 67 FR 72854, December 9, 2002 (FRL–6823–6).
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17. Washington, J.W., et al. Concentrations, Distribution and Persistence of Perfluoroalkylates in Sludge-applied Soils Near Decatur, Alabama, USA. Environmental Science and Technology. 44: 8390–8396. 2010.
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19. EPA. Perfluoroalkyl Sulfonates; Proposed Significant New Use Rule; Proposed Rule. **Federal Register**. 67 FR 11014, March 11, 2002 (FRL–6823–7).
20. Kato, K. et al. Trends in Exposure to Polyfluoroalkyl Chemicals in the U.S. Population: 1999–2008. Environmental Science and Technology. 45: 8037–8045. 2011.
21. Gremmel, Christoph, et al. ''Systematic determination of perfluoroalkyl and polyfluoroalkyl substances (PFASs) in outdoor jackets.'' Chemosphere 160 (2016): 173–180.
22. Liu, Xiaoyu, et al. ''Determination of fluorotelomer alcohols in selected consumer products and preliminary investigation of their fate in the indoor environment.'' Chemosphere 129 (2015): 81–86.
23. Washington, J.W., T.M. Jenkins. 2015. Abiotic hydrolysis of fluorotelomer polymers as a source of perfluorocarboxylates at the global scale. Environmental Science & Technology. 49. 14129–14135.
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30. EPA. Significant New Uses of Certain Chemical Substances; Final Rule. **Federal Register**. 55 FR 17376, April 24, 1990 (FRL–3658–5).
31. EPA. Understanding the Costs Associated with Eliminating Exemptions for Articles in SNURs. November 12, 2014.
32. EPA. Illustrative List of LCPFACs Update September 17, 2014.
33. EPA. Chemicals Added to the Toxics Release Inventory Pursuant to Section 7321 of the National Defense Authorization Act. April 1, 2020. Accessed at: *https://www.epa.gov/sites/production/files/2020-04/documents/tri_non-cbi_pfas_list_2_19_2020_final_clean.pdf.*

34. EPA. 2010/2015 PFOA Stewardship Program Final Report. Accessed at: *https://www.epa.gov/sites/production/files/2017-02/documents/2016_pfoa_stewardship_summary_table_0.pdf.*

XIV. Statutory and Executive Order Reviews

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

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

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). Any changes made in response to OMB recommendations have been documented in the docket for this action as required by section 6(a)(3)(E) of Executive Order 12866.

EPA prepared an economic analysis of the potential costs and benefits associated with this action. A copy of the economic analysis, entitled ''Economic Analysis of the Significant New Use Rule for Perfluoroalkyl Sulfonates and Long-Chain Perfluoroalkyl Carboxylate Chemical Substances'' (Ref. 4), is available in the docket and is briefly summarized in Unit XI.

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

This is a regulatory action subject to Executive Order 13771 (82 FR 9339, February 3, 2017). Details on the estimated costs and benefits of this final rule can be found in EPA's analysis (Ref. 4), which is available in the docket and is summarized in Unit I.E.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA, 44 U.S.C. 3501 *et seq.* Burden is defined in 5 CFR 1320.3(b). The information collection activities associated with existing chemical SNURs are already approved under OMB control number 2070–0038 (EPA ICR No. 1188); and the information collection activities associated with export notifications are already approved under OMB control number 2070–0030 (EPA ICR No. 0795). If an entity were to submit a SNUN to the Agency, the annual burden is estimated to be less than 100 hours per response, and the estimated burden for export notifications is less than 1.5 hours per notification. In both cases, burden is estimated to be lower for submitters who have already registered to use the electronic submission system.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in Title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR, part 9, and included on the related collection instrument, or form, as applicable.

D. Regulatory Flexibility Act (RFA)

Pursuant to section 605(b) of the RFA, 5 U.S.C. 601 *et seq.,* I certify that promulgation of this SNUR would not have a significant economic impact on a substantial number of small entities. The rationale supporting this conclusion is as follows.

A SNUR applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a ''significant new use.'' By definition of the word ''new'' and based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. Since this SNUR will require a person who intends to engage in such activity in the future to first notify EPA by submitting a SNUN, no economic impact will occur unless someone files a SNUN to pursue a significant new use in the future or forgoes profits by avoiding or delaying the significant new use. Although some small entities may decide to conduct such activities in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemical substances, the Agency receives only a handful of notices per year. During the six-year period from 2005–2010, only three submitters self-identified as small in their SNUN submission (Ref. 4). Based on this, EPA believes that few SNUN submissions will occur as a result of the rule. EPA believes the total cost of submitting a SNUN, $10,000 for small business submitters, is relatively small compared to annual revenues of the companies and does not have a significant economic impact as compared to the cost of developing and marketing a chemical new to a firm or marketing a new use of the chemical. This estimate does not include any costs associated with importer's identification of chemicals associated with the SNUR. While EPA does not have estimates on the cost of developing and marketing a new chemical, it has identified a mean reformulation cost of $31,700 and a maximum of $114,000, which is well above the $10,000 SNUN costs.

Therefore, EPA believes that the potential economic impact of complying with this final SNUR is not expected to be significant or adversely impact a substantial number of small entities.

E. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reason to believe that any State, local, or Tribal government would be impacted by this rulemaking. As such, the requirements of sections 202, 203, 204, or 205 of UMRA, 2 U.S.C. 1531–1538, do not apply to this action.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not have any effect on tribal governments, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because this action does not address environmental health or safety risks, and EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order.

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

This final rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use.

J. National Technology Transfer and Advancement Act (NTTAA)

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

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

This final rule does not invoke special consideration of environmental justice related issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994), because EPA has determined that this action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations.

L. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801–808, and 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 721

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

Dated: June 22, 2020.

Andrew Wheeler,

Administrator.

Therefore, for the reasons stated in the preamble, EPA amends 40 CFR chapter I as follows:

PART 721—SIGNIFICANT NEW USES OF CHEMICAL SUBSTANCES

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

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

■ 2. Amend § 721.9582 by:
■ a. Redesignating paragraph (a) as (b).
■ b. Adding new paragraph (a).
■ c. Adding paragraph (b)(2)(v).
■ d. Adding paragraph (c).

The additions read as follows:

§ 721.9582 Certain perfluoroalkyl sulfonates.

(a) Definitions. The definitions in § 721.3 apply to this section. In addition, the following definition applies:

Carpet means a finished fabric or similar product intended to be used as a floor covering. This definition excludes resilient floor coverings such as linoleum and vinyl tile.

(b) * * *

(2) * * *

(v) Import as part of carpets.

* * * * *

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

(1) Revocation of certain notification exemptions. With respect to imports of carpets, the provisions of § 721.45(f) do not apply to this section. A person who imports a chemical substance identified in this section as part of a carpet is not exempt from submitting a significant new use notice. The other provision of § 721.45(f), respecting processing a chemical substance as part of an article, remains applicable.

(2) The provision at § 721.45(h) does not apply to this section.

■ 3. Revise § 721.10536 to read as follows:

§ 721.10536 Long-chain perfluoroalkyl carboxylate chemical substances.

(a) *Definitions.* The definitions in § 721.3 apply to this section. In addition, the following definition applies:

Carpet means a finished fabric or similar product intended to be used as a floor covering. This definition excludes resilient floor coverings such as linoleum and vinyl tile.

(b) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified in this paragraph, where $5 < n < 21$ or $6 < m < 21$, are subject to reporting under this section for the significant new uses described in paragraph (b)(4)(i) and (b)(4)(iv) of this section.

(i) $CF_3(CF_2)_n$-COO M where M = H^+ or any other group where a formal dissociation can be made;

(ii) $CF_3(CF_2)_n$-CH=CH_2;

(iii) $CF_3(CF_2)_n$-C(=O)-X, where X is any chemical moiety;

(iv) $CF_3(CF_2)_m$-CH_2-X, where X is any chemical moiety; and

(v) $CF_3(CF_2)_m$-Y–X, where Y = non-S, non-N heteroatom and where X is any chemical moiety.

(2) The chemical substances listed in Table 1 of this paragraph are subject to reporting under this section for the significant new uses described in paragraph (b)(4)(ii) of this section.

TABLE 1 TO PARAGRAPH (b)(2)—LCPFAC CHEMICAL SUBSTANCES SUBJECT TO REPORTING AFTER DECEMBER 31, 2015

Chemical name	CAS registry No. (CASRN)	EPA accession No.	TSCA chemical inventory name
Perfluorooctyl iodide	507–63–1	N/A	Octane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8-heptadecafluoro-8-iodo-.
Tetrahydroperfluoro-1-decanol	678–39–7	N/A	1-Decanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro-.
Perfluoro-1-dodecanol	865–86–1	N/A	1-Dodecanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-.henei cosafluoro-
Perfluorodecyl iodide	2043–53–0	N/A	Decane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8-heptadecafluoro-10-iodo-.
1,1,2,2-Tetrahydroperfluorododecyl iodide.	2043–54–1	N/A	Dodecane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10-heneicosafluoro-12-iodo-.
Perfluorodecylethyl acrylate	17741–60–5	N/A	2-Propenoic acid, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafluorododecyl ester.
1,1,2,2-Tetrahydroperfluorodecyl acrylate.	27905–45–9	N/A	2-Propenoic acid, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro decyl ester
1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12-Pentacosafluoro-14-iodotetradecane.	30046–31–2	N/A	Tetradecane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12-pentacosafluoro-14-iodo-.
3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-Pentacosafluorotetradecan-1-ol.	39239–77–5	N/A	1-Tetradecanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosafluoro-.

TABLE 1 TO PARAGRAPH (b)(2)—LCPFAC CHEMICAL SUBSTANCES SUBJECT TO REPORTING AFTER DECEMBER 31, 2015—Continued

Chemical name	CAS registry No. (CASRN)	EPA accession No.	TSCA chemical inventory name
3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15,16,16,16-Nonacosafluorohexadecan-1-ol.	60699–51–6	N/A	1-Hexadecanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15,16,16,16-nonacosafluoro-.
1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14-Nonacosafluoro-16-iodohexadecane.	65510–55–6	N/A	Hexadecane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14-nonacosafluoro-16-iodo-.
Sodium;2-methylpropane-1-sulfonate.	68187–47–3	N/A	1-Propanesulfonic acid, 2-methyl-, 2-[[1-oxo-3-[(.gamma.-.omega.-perfluoro- C4-16-alkyl)thio]propyl]amino] derivs., sodium salts
1,1,2,2-Tetrahydroperfluoroalkyl (C8-C14) alcohol.	68391–08–2	N/A	Alcohols, C8-14, .gamma.-.omega.-perfluoro.
Thiols, C8-20, gamma-omega-perfluoro, telomers with acrylamide.	70969–47–0	N/A	Thiols, C8-20, .gamma.-.omega.-perfluoro, telomers with acrylamide.
Silicic acid (H_4SiO_4), sodium salt (1:2), reaction products with chlorotrimethylsilane and 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro-1-decanol.	125476–71–3 ...	N/A	Silicic acid (H_4SiO_4), sodium salt (1:2), reaction products with chlorotrimethylsilane and 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro-1-decanol.
Thiols, C4-20, gamma-omega-perfluoro, telomers with acrylamide and acrylic acid, sodium salts).	1078712–88–5	N/A	Thiols, C4-20, .gamma.-.omega.-perfluoro, telomers with acrylamide and acrylic acid, sodium salts.
1-Propanaminium, 3-amino-N-(carboxymethyl)-N,N-dimethyl-, N-(2-((gamma-omega-perfluoro-C4–20-alkyl)thio)acetyl) derivs., inner salts.	1078715–61–3	N/A	1-Propanaminium, 3-amino-N-(carboxymethyl)-N,N-dimethyl-, N-[2-[(.gamma.-.omega.-perfluoro-C4-20-a lkyl)thio]acetyl] derivs., inner salts.
Polyfluoroalkyl betaine (generic)	CBI	71217	Polyfluoroalkyl betaine (PROVISIONAL).
Modified fluoroalkyl urethane (generic).	CBI	89419	Modified fluoroalkyl urethane (PROVISIONAL).
Perfluorinated polyamine (generic)	CBI	274147	Perfluorinated polyamine (PROVISIONAL).

(3) The chemical substances identified as perfluorooctanoic acid (PFOA) and its salts, including those listed in Table 2 of this paragraph, are subject to reporting under this section for the significant new uses described in paragraph (b)(4)(iii) of this section.

TABLE 2 TO PARAGRAPH (b)(3)—PFOA AND EXAMPLES OF ITS SALTS

Chemical name	CAS registry No. (CASRN)	TSCA chemical inventory name
Pentadecafluorooctanoyl fluoride	335–66–0	Octanoyl fluoride, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-.
Perfluorooctanoic acid	335–67–1	Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro- (PFOA).
Silver perfluorooctanoate	335–93–3	Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, silver (+) salt (1:1).
Sodium perfluorooctanoate	335–95–5	Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, sodium salt (1:1).
Potassium perfluorooctanoate	2395–00–8	Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, potassium salt (1:1).
Ammonium perfluorooctanoate	3825–26–1	Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, ammonium salt (1:1) (APFO).

(4) Significant new uses:

(i) The significant new use for chemical substances identified in paragraph (b)(1) of this section is: Manufacture (including import) or processing for use as part of carpets or to treat carpets (*e.g.,* for use in the carpet aftercare market).

(ii) The significant new use for chemical substances identified in paragraph (b)(2) of this section is: Manufacture (including import) or processing for any use after December 31, 2015.

(iii) The significant new use for chemical substances identified in paragraph (b)(3) of this section is: Manufacture (including import) or processing for any use. Import or processing of fluoropolymer dispersions and emulsions, and fluoropolymers as part of articles, containing chemical substances identified in paragraph (b)(3) of this section shall not be considered as a significant new use subject to reporting.

(iv) The significant new use for chemical substances identified in paragraph (b)(1) of this section, except for those chemicals identified in Table 1 of paragraph (b)(2) of this section is: Manufacture (including import) or processing for any use other than the use already covered by paragraph (b)(4)(i) of this section.

(5) Manufacturing (including importing) or processing of certain

chemical substances identified in paragraph (b)(1), paragraph (b)(2), and paragraph (b)(3) of this section for the following specific uses shall not be considered as a significant new use subject to reporting under this section:

(i) Use in an antireflective coating, photoresists, or surfactant for use in photomicrolithography and other processes to produce semiconductors or similar components of electronic or other miniaturized devices.

(ii) Use of 2-Propenoic acid, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl ester (CAS No. 27905–45–9) as a coating or component of a hydrophobic and/or oleophobic coating or barrier applied to manufactured articles or components of articles using an energy source or plasma deposition methods, which include a pulse deposition mode. Examples of such articles include: Electronic devices and components thereof, medical consumables and bio-consumables, filtration devices and filtration materials, clothing, footwear and fabrics.

(iii) Use of Silane, trichloro (3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl)-(CAS No. 78560–44–8) as a surface treatment to make low refractive index resin for optical applications; surface treatment for minerals, particles and inorganic surfaces for hydrophobicity; and monomer to make specialty resins hydrophobic.

(iv) Use of Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro- (CAS No. 335–67–1) as a surfactant and coating, as part of articles: Stickers, labels, and parts to which those stickers and labels are attached.

(v) Use of 1-Propanesulfonic acid, 2-methyl-, 2-[[1-oxo-3-[(.gamma.-.omega.-perfluoro-C4-16-alkyl)thio]propyl]amino] derivs., sodium salts (CAS No. 68187–47–3); Thiols, C8-20, .gamma.-.omega.-perfluoro, telomers with acrylamide (CAS No. 70969–47–0); or Perfluorinated polyamine (generic) (ACC274147) as a component in fire extinguishing agent.

(vi) Use of Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro- (CAS No. 335–67–1); Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, sodium salt (1:1) (CAS No. 335–95–5); or Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, ammonium salt (1:1) (CAS No. 3825–26–1) for use in automotive articles, both in factory assembly and replacement parts.

(vii) Use of Poly(difluoromethylene), .alpha.,.alpha.'-[phosphinicobis(oxy-2,1-ethanediyl)]bis[.omega.-fluoro-, ammonium salt (1:1) (CAS No. 65530–70–3); Poly(difluoromethylene), .alpha.-fluoro-.omega.-[2-(phosphonooxy)ethyl]-, ammonium salt (1:1) (CAS No. 65530–71–4); or Poly(difluoromethylene), .alpha.-fluoro-.omega.-[2-(phosphonooxy)ethyl]-, ammonium salt (1:2) (CAS No. 65530–72–5) for use in the manufacturing or processing of:

(A) Architectural coatings or wood coatings, at a maximum concentration of 0.1% by weight.

(B) Industrial primer coatings for non-spray applications to metal by coil coating application, at a maximum concentration of 0.01% by weight.

(viii) Use of Alcohols, C8-14, .gamma.-.omega.-perfluoro (CAS No. 68391–08–2) in the manufacture or processing of coatings and finishes for a variety of textile, leather, and hard surface treatments, and in the manufacture of wetting agents.

(ix) Use of Poly(oxy-1,2-ethanediyl), .alpha.-hydro-.omega.-hydroxy-, ether with .alpha.-fluoro-.omega.-(2-hydroxyethyl)poly(difluoromethylene) (1:1) (CAS No. 65545–80–4) in water-based inks.

(x) Use of Poly(difluoromethylene), .alpha.-[2-[(2-carboxyethyl)thio]ethyl]-.omega.-fluoro-, lithium salt (1:1) (CAS No. 65530–69–0) in photo media coatings.

(xi) Use of Ethanol, 2,2'-iminobis-, compd. with .alpha.-fluoro-.omega.-[2-(phosphonooxy) ethyl]poly(difluoromethylene) (2:1) (CAS No. 65530–63–4); Ethanol, 2,2'-iminobis-, compd. with .alpha.,.alpha.'-[phosphinicobis(oxy-2,1-ethanediyl)]bis[.omega.-fluoropoly(difluoromethylene)] (1:1) (CAS No. 65530–64–5); or Ethanol, 2,2'-iminobis-, compd. with .alpha.-fluoro-.omega.-[2-(phosphonooxy)ethyl] poly(difluoromethylene) (1:1) (CAS No. 65530–74–7) in paints and coatings, grouts, and sealers.

(xii) Use of Poly(oxy-1,2-ethanediyl), .alpha.-hydro-.omega.-hydroxy-, ether with .alpha.-fluoro-.omega.-(2-hydroxyethyl)poly(difluoromethylene) (1:1) (CAS No. 65545–80–4) in paints, coatings, ink jet inks, and ink masterbatch.

(xiii) Use of 1-Propanesulfonic acid, 2-methyl-, 2-[[1-oxo-3-[(.gamma.-.omega.-perfluoro-C4-16-alkyl)thio]propyl]amino] derivs., sodium salts (CAS No. 68187–47–3) in adhesives.

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

(1) *Revocation of certain notification exemptions.* With respect to imports of carpets, the provisions of § 721.45(f) do not apply to this section. With respect to imports of articles, the provisions of § 721.45(f) also do not apply to a chemical substance identified in paragraphs (b)(2) or (b)(3) of this section when they are part of a surface coating of an article. A person who imports a chemical substance identified in paragraph (b)(1) of this section as part of a carpet or who imports a chemical substance identified in paragraphs (b)(2) or (b)(3) of this section as part of a surface coating on an article is not exempt from submitting a significant new use notice. The other provision of § 721.45(f), respecting processing a chemical substance as part of an article, remains applicable.

(2) The provision at § 721.45(h) does not apply to this section.

[FR Doc. 2020–13738 Filed 7–24–20; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 19–250 and RM–11849; FCC 20–75: FRS 16876]

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

AGENCY: Federal Communications Commission.

ACTION: Declaratory ruling.

SUMMARY: In this document, the Federal Communications Commission (''Commission'' or ''FCC'') clarifies its rules implementing portions of the Spectrum Act of 2012 that streamline State and local review of applications to modify existing wireless infrastructure. The Declaratory Ruling clarifies the following: When the 60-day shot clock starts for local governments to review and approve an eligible modification; what constitutes a ''substantial change'' when a modification would increase the height of an existing structure, would require the addition of equipment cabinets, or would change the visual profile of a structure; and whether, within the context of the Commission's environmental review rules, an environmental assessment is required when an impact to historic properties has already been mitigated in the Commission's historic preservation review process.

DATES: This Declaratory Ruling was effective June 10, 2020.

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

SUPPLEMENTARY INFORMATION: This is a summary of the FCC's Declaratory Ruling in WT Docket No. 19–250 and RM–11849, FCC 20–75, adopted on June 9, 2020, and released on June 10, 2020. The document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Synopsis

I. Declaratory Ruling

1. In this *Declaratory Ruling,* the Commission clarifies several key elements that determine whether a modification request qualifies as an eligible facilities request that a State or local government must approve within 60 days, and it clarifies when the 60-day shot clock for review of an eligible facilities request commences. These interpretations provide greater certainty to applicants for State and local government approval of wireless facility modifications, as well as to the reviewing government agencies, and these interpretations should accelerate the deployment of advanced wireless networks.

2. Specifically, the Commission clarifies that:

- The 60-day shot clock in § 1.6100(c)(2) begins to run when an applicant takes the first procedural step in a locality's application process and submits written documentation showing that a proposed modification is an eligible facilities request;
- The phrase ''with separation from the nearest existing antenna not to exceed twenty feet'' in § 1.6100(b)(7)(i) allows an increase in the height of the tower of up to twenty (20) feet between antennas, as measured from the top of an existing antenna to the bottom of a proposed new antenna on the top of a tower;
- The term ''equipment cabinets'' in § 1.6100(b)(7)(iii) does not include relatively small electronic components, such as remote radio units, radio transceivers, amplifiers, or other devices mounted on the structure, and up to four such cabinets may be added to an existing facility per separate eligible facilities request;
- The term ''concealment element'' in § 1.6100(b)(7)(v) means an element that is part of a stealth-designed facility intended to make a structure look like something other than a wireless facility, and that was part of a prior approval;
- To ''defeat'' a concealment element under § 1.6100(b)(7)(v), a proposed modification must cause a reasonable person to view a structure's intended stealth design as no longer effective; and
- The phrase ''conditions associated with the siting approval'' may include aesthetic conditions to minimize the visual impact of a wireless facility as long as the condition does not prevent modifications explicitly allowed under § 1.6100(b)(7)(i) through (iv) (antenna height, antenna width, equipment cabinets, and excavations or deployments outside the current site) and so long as there is express evidence that at the time of approval the locality required the feature and conditioned approval upon its continuing existence.

3. Certain parties contend that the Commission lacks legal authority to adopt the rulings requested in the petitions, which they contend do not just clarify or interpret the rules established in 2014 but also change them, requiring that the Commission issue a Notice of Proposed Rulemaking followed by a Report and Order. As an initial matter, the Commission notes that it is not adopting all of the rulings requested in WIA's and CTIA's petitions for declaratory ruling because it finds incremental action to be an appropriate step at this juncture, particularly given, as mentioned above, that the Commission has continued to take steps to ease barriers to deployment of wireless infrastructure since adopting rules to implement Section 6409(a). The determinations in this *Declaratory Ruling* are intended solely to interpret and clarify the meaning and scope of the existing rules set forth in the *2014 Infrastructure Order,* in order to remove uncertainty and in light of the differing positions of the parties on these questions. In addition, the Commission finds it appropriate to initiate a *Notice of Proposed Rulemaking* regarding tower site boundaries and excavation or deployment outside the boundaries of an existing tower site, in order to consider whether modifications of its rules are needed to resolve current disputes. The Commission intends, with these steps, to continue to advance the same goals that led it to adopt regulations implementing Section 6409(a) in the first instance—to avoid ambiguities leading to disputes that could undermine the goals of the Spectrum Act, *i.e.,* to advance wireless broadband service.

A. Commencement of Shot Clock

4. Section 1.6100(c)(2) provides that the 60-day review period for eligible facilities requests begins ''on the date on which an applicant submits a request seeking approval.'' If the local jurisdiction ''fails to approve or deny a request seeking approval under this section within the timeframe for review (accounting for any tolling), the request shall be deemed granted.'' The *2014 Infrastructure Order* discusses the procedures that local governments need to implement in order to carry out their obligations to approve eligible facilities requests within 60 days; it does not, however, define the date on which an applicant is deemed to have submitted an eligible facilities request for purposes of triggering the 60-day shot clock.

5. There is evidence in the record that some local jurisdictions effectively postpone the date on which they consider eligible facilities requests to be duly filed (thereby delaying the commencement of the shot clock) by treating applications as incomplete unless applicants have complied with time-consuming requirements. Such requirements include meeting with city or county staff, consulting with neighborhood councils, obtaining various certifications, or making presentations at public hearings. While some stakeholders may have assumed that, after the *2014 Infrastructure Order,* local governments would develop procedures designed to review and approve covered requests within a 60-day shot clock period, many have not done so and instead continue to require applicants to apply for forms of authorizations that entail more ''lengthy and onerous processes'' of review. In such jurisdictions, applicants may need to obtain clearance from numerous, separate municipal departments, which could make it difficult to ascertain whether or when the shot clock has started to run.

6. To address uncertainty regarding the commencement of the shot clock, the Commission clarifies that, for purposes of its shot clock and deemed granted rules, an applicant has effectively submitted a request for approval that triggers the running of the shot clock when it satisfies *both* of the following criteria: (1) The applicant takes the first procedural step that the local jurisdiction requires as part of its applicable regulatory review process under Section 6409(a), and, to the extent it has not done so as part of the first required procedural step, (2) the applicant submits written documentation showing that a proposed

modification is an eligible facilities request.

7. By requiring that an applicant take the first procedural step required by the locality, the goal is to give localities ''considerable flexibility'' to structure their procedures for review of eligible facilities requests, but prevent localities from ''impos[ing] lengthy and onerous processes not justified by the limited scope of review contemplated'' by section 6409(a). In taking the first procedural step that the local jurisdiction requires as part of its applicable regulatory review process, applicants demonstrate that they are complying with a local government's procedures. The second criterion—requiring applicants to submit written documentation showing that the proposed modification is an eligible facilities request—is necessary because localities must have the opportunity to review this documentation to determine whether the proposed modification is an eligible facilities request that must be approved within 60 days. The Commission anticipates that the documentation sufficient to start the shot clock under the stated criteria might include elements like a description of the proposed modification and an explanation of how the proposed modification is an eligible facilities request. The Commission finds that these criteria strike a reasonable balance between local government flexibility and the streamlined review envisioned by Section 6409(a).

8. In addition, the Commission finds that further clarifications are needed to achieve its goal of balancing local government flexibility with the streamlined review envisioned by Section 6409(a). First, the Commission clarifies that a local government may not delay the triggering of the shot clock by establishing a ''first step'' that is outside of the applicant's control or is not objectively verifiable. For example, if the first step required by a local government is that applicants meet with municipal staff before making any filing, the applicant should be able to satisfy that first step by making a written request to schedule the meeting—a step within the applicant's control. In this example, the 60-day shot clock would start once the applicant has made a written request for the meeting and the applicant also has satisfied the second of the criteria (documentation). The Commission does not wish to discourage meetings between applicants and the local governments, and it recognizes that such consultations may help avoid errors that localities have identified as leading to delays, but such meetings themselves should not be allowed to cause delays or prevent these requests from being timely approved. As an additional example, a local government could not establish as its first step a requirement that an applicant demonstrate that it has addressed all concerns raised by the public, as such a step would not be objectively verifiable.

9. Second, the Commission clarifies that a local government may not delay the triggering of the shot clock by defining the ''first step'' as a combination or sequencing of steps, rather than a single step. For example, if a local government defines the first step of its process as separate consultations with a citizens' association, a historic preservation review board, and the local government staff, an applicant will trigger the shot clock by taking any one of those actions, along with satisfying the second of the criteria (documentation). Once the shot clock has begun, it would not be tolled if the local government were to deny, delay review of, or require refiling of the application on the grounds that the local government's separate consultation requirements were not completed. The Commission expects applicants to act in good faith to fulfill reasonable steps set forth by a local government that can be completed within the 60 day period, but the local government would bear responsibility for ensuring that any steps in its process, as well as the substantive review of the proposed facility modification, are all completed within 60 days. If not, the eligible facilities request would be deemed granted under the Commission's rules.

10. Third, the Commission clarifies that a local government may not delay the start of the shot clock by declining to accept an applicant's submission of documentation intended to satisfy the second of the criteria for starting the shot clock. In addition, a local government may not delay the start of the shot clock by requiring an applicant to submit documentation that is not reasonably related to determining whether the proposed modification is an eligible facilities request. The Commission clarifies how its documentation rules apply in the context of the shot clock to provide certainty that unnecessary documentation requests do not effectively delay the shot clock as part of the local government's ''first step,'' even if providing that documentation would be within the applicant's control and could be objectively verified. For example, if a locality requires as the first step in its section 6409(a) process that an applicant meet with a local zoning board, that applicant would not need to submit local zoning documentation as well in order to trigger the shot clock.

11. Fourth, the Commission notes that a local government may use conditional use permits, variances, or other similar types of authorizations under the local government's standard zoning or siting rules, in connection with the consideration of an eligible facilities request. The Commission clarifies, however, that requirements to obtain such authorizations may not be used by the local government to delay the start of or to toll the shot clock under the section 6409(a) process. The shot clock would begin once the applicant takes the first step in whatever process the local government uses in connection with reviewing applications subject to section 6409(a) and satisfies the second of the criteria (documentation). The Commission rejects localities' suggestions that the shot clock should not commence until an applicant submits documentation required for all necessary permits, as such an approach is inconsistent with federal law. Subsequently, if the locality rejects the applicant's request to modify wireless facilities as incomplete based on requirements relating to such permits, variances, or similar authorizations, the shot clock would not be tolled and the application would be deemed granted after 60 days if the application constitutes an eligible facilities request under the Commission's rules. Localities may only toll the shot clock ''by mutual agreement'' or if the locality ''determines that the application is incomplete.''

12. Fifth, the Commission notes that some jurisdictions have not established specific procedures for the review and approval of eligible facilities requests under Section 6409(a). In those cases, the Commission clarifies that, for purposes of triggering the shot clock under Section 6409(a), the applicant can consider the first procedural step to be submission of the type of filing that is typically required to initiate a standard zoning or siting review of a proposed deployment that is not subject to section 6409(a). Comparable modification requests might include applications to install, modify, repair, or replace wireless transmission equipment on a structure that is outside the scope of Section 6409(a), or to mount cable television, wireline telephone, or electric distribution cables or equipment on outdoor towers or poles. Where the first step in the process is submission of the type of filing that is typically required for comparable modification requests, the Commission notes that applicants are not required to file any documentation that is inconsistent with

the Commission's rules for eligible facilities requests under Section 6409(a).

13. The Commission finds that these clarifications serve to remove uncertainty about the scope and meaning of various provisions of Section 1.6100 consistent with the text, history, and purpose of the *2014 Infrastructure Order.* The Commission also notes that the commencement of the shot clock does not excuse the applicant from continuing to follow the locality's procedural and substantive requirements (to the extent those requirements are consistent with the Commission's rules), including obligations ''to comply with generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety.''

B. Height Increase for Towers Outside the Public Rights-of-Way

14. Adding new collocated equipment near or at the top of an existing tower can be an efficient means of expanding the capacity or coverage of a wireless network without the disturbances associated with building an entirely new structure. Adding this equipment to an existing tower would change the tower's physical dimensions, but if such a change is not ''substantial,'' then a request to implement it would qualify as an eligible facilities request, and a locality would be required to approve it. Section 1.6100(b)(7)(i) provides that a modification on a tower outside of the public rights-of-way would cause a substantial change if it ''increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater.''

15. Commenters assert that they have two different interpretations of the meaning of this language in Section 1.6100(b)(7)(i). Industry commenters read Section 1.6100(b)(7)(i) as allowing a new antenna to be added without being a substantial change if there is no more than twenty feet in ''separation'' between the existing and new antennas, and that the size/height of the new antenna itself is irrelevant to the concept of ''separation.'' Localities appear to be of the view, however, that such an interpretation strains what the statute and regulations would permit—creating different standards for antenna height depending on where it is located and leading to indefinite increases in antenna height under a streamlined process not designed for that purpose. Adding an antenna array to a tower out of the public right-of-way that increases the height of the tower would not be considered a substantial change, by itself, if there is no more than twenty feet of separation between the nearest existing antenna. The phrase ''separation from the nearest existing antenna'' means the distance from the top of the highest existing antenna on the tower to the *bottom* of the proposed new antenna to be deployed above it. Thus, when determining whether an application satisfies the criteria for an eligible facilities request, localities should not measure this separation from the top of the existing antenna to the *top* of the new antenna, because the height of the new antenna itself should not be included when calculating the allowable height increase. Rather, under the Commission's interpretation, the word ''separation'' refers to the distance from the top of the existing antenna to the bottom of the proposed antenna. Interpreting ''separation'' otherwise to include the height of the new antenna could limit the number of proposed height increases that would qualify for Section 6409(a) treatment, given typical antenna sizes and separation distances between antennas, which would undermine the statute's objective to facilitate streamlined review of modifications of existing wireless structures.

16. Specifically, and in response to commenters' arguments regarding the language in Section 1.6100(b)(7)(i), the Commission find that its resolution is consistent with the long-established interpretation of the comparable standard set forth in the 2001 *Collocation Agreement* for determining the maximum size of a proposed collocation that is categorically excluded from historic preservation review. Commission staff explained, in a fact sheet released in 2002, that under this provision of the *Collocation Agreement,* if a ''150-foot tower . . . already [has] an antenna at the top of the tower, the tower height could increase by up to 20 feet [*i.e.,* the ''separation'' distance] *plus* the height of a new antenna to be located at the top of the tower'' without constituting a substantial increase in size. That standard was the source of the standard for the allowable height increases for towers outside the rights-of-way that the Commission adopted in the *2014 Infrastructure Order.*

17. The Commission's interpretation also aligns with the clarification sought by WIA and other industry parties. The Commission rejects the argument that this interpretation creates irrational inconsistences among height increase standards depending on the type of structure and whether a tower is inside or outside the rights-of-way. As the Commission discussed in the *2014 Infrastructure Order,* limits on height and width increases should depend on the type and location of the underlying structure. The Commission therefore adopted the *Collocation Agreement's* ''substantial increase in size'' test for towers outside the rights-of-way, and it adopted a different standard for non-tower structures. Localities are rearguing an issue already settled in the *2014 Infrastructure Order* when they urge that the same height increase standard should apply to different types of structures. The Commission also rejects the argument that this interpretation would lead to virtually unconstrained increases in the height of such towers. These concerns are unwarranted because the *2014 Infrastructure Order* already limits the cumulative increases in height from eligible modifications and nothing in this *Declaratory Ruling* changes those limits.

18. The clarification is limited to Section 1.6100(b)(7)(i) and the maximum increase in the height of a tower outside the rights-of-way allowed pursuant to an eligible facilities request under Section 6409(a). The Commission reminds applicants that ''eligible facility requests covered by Section 6409(a) must comply with any relevant Federal requirement, including any applicable Commission, FAA, NEPA, or Section 106 [historic review] requirements.''

C. Equipment Cabinets

19. To upgrade to 5G and for other technological and capacity improvements, providers often add equipment cabinets to existing wireless sites. Section 1.6100(b)(7)(iii) provides that a proposed modification to a support structure constitutes a substantial change if ''it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.'' Some localities suggest that telecommunications transmission equipment manufactured with outer protective covers can be ''equipment cabinets'' under Section 1.6100(b)(7)(iii) of the rules. The Commission concludes that localities are interpreting ''equipment cabinet'' under Section 1.6100(b)(7)(iii) too broadly to the extent they are treating equipment itself as a cabinet simply because transmission equipment may have protective housing. Nor does a small piece of transmission equipment mounted on a structure become an ''equipment cabinet'' simply because it is more visible when mounted above ground. Consistent with common usage of the term ''equipment cabinet'' in the

telecommunications industry, small pieces of equipment such as remote radio heads/remote radio units, amplifiers, transceivers mounted behind antennas, and similar devices are not ''equipment cabinets'' under Section 1.6100(b)(7)(iii) if they are not used as physical containers for smaller, distinct devices. Moreover, the Commission notes that Section 1.6100(b)(3) defines an ''eligible facilities request'' (*i.e.,* a request entitled to streamlined treatment under Section 6409(a)) as any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station and that involves the collocation, removal or replacement of ''transmission equipment.'' Interpreting ''transmission equipment,'' an element required in order for a modification to qualify for streamlined treatment, to be ''equipment cabinets,'' an element that is subject to numerical limits that can cause the modification not to qualify for streamlined treatment, would strain the intended purposes of Sections 1.6100(b)(3) and 1.6100(b)(7)(iii). The Commission does not address here other aspects of the definition of equipment cabinets on which industry commenters seek clarification.

20. In addition, the Commission clarifies that the maximum number of additional equipment cabinets that can be added under the rule is measured for each separate eligible facilities request. According to WIA, one unidentified city in Tennessee interprets the term ''not to exceed four cabinets'' in Section 1.6100(b)(7)(iii) as ''setting a cumulative limit, rather than a limit on the number of cabinets associated with a particular eligible facilities request.'' The Commission finds that such an interpretation runs counter to the text of Section 1.6100(b)(7)(iii), which restricts the number of ''new'' cabinets per eligible facilities request. The city's interpretation ignores the fact that the word ''it'' in the rule refers to a ''modification'' and supports the conclusion that the limit on equipment cabinet installations applies separately to each eligible facilities request. This conclusion is also supported by the context of the rule as a whole. The number and size of preexisting cabinets are irrelevant to the limitation on equipment cabinets on eligible support structures, in contrast to the rest of the rule, which takes into account whether there are preexisting ground cabinets at the site and whether proposed new cabinets' volume exceeds the volume of preexisting cabinets by more than 10%.

21. Several localities argue that this clarification would permit an applicant to add an unlimited number of new equipment cabinets to a structure so long as the applicant proposes adding them in increments of four or less. The Commission disagrees that this clarification permits an unlimited number of cabinets on a structure. The text of Section 1.6100(b)(7)(iii) limits the number of equipment cabinets per modification to no more than ''the standard number of new equipment cabinets for the technology involved.''

D. Concealment Elements

22. Section 1.6100(b)(7)(v) states that a modification ''substantially changes'' the physical dimensions of an existing structure if ''[i]t would defeat the concealment elements of the eligible support structure.'' The *2014 Infrastructure Order* provides that, ''in the context of a modification request related to concealed or 'stealth'-designed facilities —*i.e.,* facilities designed to look like some feature other than a wireless tower or base station— any change that defeats the concealment elements of such facilities would be considered a 'substantial change' under Section 6409(a).'' The *2014 Infrastructure Order* notes that both locality and industry commenters generally agreed that ''a modification that undermines the concealment elements of a stealth wireless facility, such as painting to match the supporting façade or artificial tree branches, should be considered substantial under Section 6409(a).''

23. Stakeholders subsequently have interpreted the definition of ''concealment element'' and the types of modifications that would ''defeat'' concealment in different ways. Petitioners and industry commenters urge the Commission to clarify that the term ''concealment element'' only refers to ''a stealth facility or those aspects of a design that were specifically intended to disguise the appearance of a facility, such as faux tree branches or paint color.'' T-Mobile states that some localities are ''proffering 'creative or inappropriate' regulatory interpretations of what a concealment element is.'' Locality commenters counter that there is more to concealment than ''fully stealthed facilities and semi-stealthed monopines.'' They argue that the proposed changes would undermine the ability of local jurisdictions to enforce regulations designed to conceal equipment. NLC asserts that many attributes of a site contribute to concealment, such as the ''specific location of a rooftop site, or the inclusion of equipment in a particular architectural feature.'' Locality commenters contend that limiting concealment elements to features identified in the original approval would negate land use requirements that were a factor in the original deployment but not specified as such.

24. *Clarification of ''Concealment Element.''* The Commission clarifies that concealment elements are elements of a stealth-designed facility intended to make the facility look like something other than a wireless tower or base station. The *2014 Infrastructure Order* defines ''concealed or 'stealth' ''-designed facilities as ''facilities designed to look like some feature other than a wireless tower or base station,'' and further provides that any change that defeats the concealment elements of *such* facilities would be considered a substantial change under Section 6409(a). Significantly, the *2014 Infrastructure Order* identified parts of a stealth wireless facility such as ''painting to match the supporting façade or artificial tree branches'' as examples of concealment elements. The Commission agrees with industry commenters that concealment elements are those elements of a wireless facility installed for the purpose of rendering the ''appearance of the wireless facility as something fundamentally different than a wireless facility,'' and that concealment elements are ''confined to those used in stealth facilities.''

25. The Commission disagrees with localities who argue that any attribute that minimizes the visual impact of a facility, such as a specific location on a rooftop site or placement behind a tree line or fence, can be a concealment element. As localities acknowledged in comments they submitted in response to the *2013 Infrastructure NPRM,* ''local governments often address visual effects and concerns in historic districts not through specific stealth conditions, but through careful placement'' conditions. The Commission's rules separately address conditions to minimize the visual impact of non-stealth facilities under Section 1.6100(b)(7)(vi) governing ''conditions associated with the siting approval.'' The Commission narrowly defined concealment elements to mean the elements of a stealth facility, and no other conditions fall within the scope of Section 1.6100(b)(7)(v).

26. The Commission also clarifies that, in order to be a concealment element under Section 1.6100(b)(7)(v), the element must have been part of the facility that the locality approved in its prior review. The Commission's clarification that concealment elements must be related to the locality's prior approval is informed by the *2014 Infrastructure Order* and its underlying record, which assumed that ''stealth''

designed facilities in most cases would be installed at the request of an approving local government. Further, in the *2014 Infrastructure Order,* the Commission stated that a modification would be considered a substantial increase if ''it would defeat the *existing* concealment elements of the tower or base station.'' The Commission clarifies that the term ''existing'' means that the concealment element existed on the facility that was subject to a prior approval by the locality. In addition, the record in the *2014 Infrastructure Order,* as relied upon by the Commission, characterized stealth requirements as identifiable, pre-existing elements in place before an eligible facilities request is submitted.

27. Regarding the meaning of a prior approval in the context of an ''existing'' concealment element, the Commission notes that Section 1.6100(b)(7)(i) provides that permissible increases in the height of a tower (other than a tower in the public rights-of-way) should be measured relative to a locality's original approval of the tower or the locality's approval of any modifications that were approved prior to the passage of the Spectrum Act. The Commission finds it reasonable to interpret an ''existing'' concealment element relative to the same temporal reference points, which are intended to allow localities to adopt legitimate requirements for approval of an original tower at any time but not to allow localities to adopt these same requirements for a modification to the original tower (except for a modification prior to the Spectrum Act when localities would not have been on notice of the limitations in Section 6409(a)). In other words, the purpose of Section 1.6100(b)(7)(v) is to identify and preserve prior local recognition of the need for such concealment, but not to invite new restrictions that the locality did not previously identify as necessary. Accordingly, the Commission clarifies that under Section 1.6100(b)(7)(v), a concealment element must have been part of the facility that was considered by the locality at the original approval of the tower or at the modification to the original tower, if the approval of the modification occurred prior to the Spectrum Act or lawfully outside of the Section 6409(a) process (for instance, an approval for a modification that did not qualify for streamlined Section 6409(a) treatment).

28. The Commission is not persuaded by localities' arguments that this clarification would negate land use requirements that were a factor in the approval of the original deployment even if those requirements were not specified as a condition. The clarification does not mean that a concealment element must have been explicitly articulated by the locality as a condition or requirement of a prior approval. While specific words or formulations are not needed, there must be express evidence in the record to demonstrate that a locality considered in its approval that a stealth design for a telecommunications facility would look like something else, such as a pine tree, flag pole, or chimney. However, it would be inconsistent with the purpose of Section 6409(a)—facilitating wireless infrastructure deployment—to give local governments discretion to require new concealment elements that were not part of the facility that was subject to the locality's prior approval. The Commission expects that this clarification will also promote the purpose of the rules to provide greater certainty to localities and applicants as to whether a concealment element exists.

29. *Clarification of ''Defeat Concealment.''* Next, the Commission clarifies that, to ''defeat concealment,'' the proposed modification must cause a reasonable person to view the structure's intended stealth design as no longer effective after the modification. In other words, if the stealth design features would continue effectively to make the structure appear not to be a wireless facility, then the modification would not defeat concealment. The Commission's definition is consistent with dictionary definitions and common usage of the term ''defeat'' and is supported by the record. The clarification is necessary because, as industry commenters point out, some localities construe even small changes to ''defeat'' concealment, which delays deployment, extends the review processes for modifications to existing facilities, and frustrates the intent behind Section 6409(a).

30. *Examples of Whether Modifications Defeat Concealment Elements.* The Commission offers the following examples to provide guidance on concealment elements and whether or not they have been defeated to help inform resolution of disputes should they arise:

- In some cases, localities take the position that the placement of coaxial cable on the outside of a stealth facility constitutes a substantial change based on the visual impact of the cable. Coaxial cables typically range from 0.2 inches to slightly over a half-inch in diameter, and it is unlikely that such cabling would render the intended stealth design ineffective at the distances where individuals would view a facility.
- In other cases, localities have interpreted any change to the color of a stealth tower or structure as defeating concealment. Such interpretations are overly broad and can frustrate Congress's intent to expedite the Section 6409(a) process. A change in color must make a reasonable person believe that the intended stealth is no longer effective. Changes to the color of a stealth structure can occur for many reasons, including for example, the discontinuance of the previous color. An otherwise compliant eligible facilities request will not defeat concealment in this case merely because the modification uses a slightly different paint color. Further, if the new equipment is shielded by an existing shroud that is not being modified, then the color of the equipment is irrelevant because it is not visible to the public and would not render an intended concealment ineffective. Therefore, such a change would not defeat concealment.
- WIA reports that a locality in Colorado claims that a small increase in height on a stealth monopine, which is less than the size thresholds of Section 1.6100(b)(7)(i) through (iv), defeats concealment and therefore constitutes a substantial change. The Commission clarifies that such a change would not defeat concealment if the change in size does not cause a reasonable person to view the structure's intended stealth design (*i.e.,* the design of the wireless facility to resemble a pine tree) as no longer effective after the modification.
- If a prior approval included a stealth-designed monopine that must remain hidden behind a tree line, a proposed modification within the thresholds of Section 1.6100(b)(7)(i) through (iv) that makes the monopine visible above the tree line would be permitted under Section 1.6100(b)(7)(v). First, the concealment element would not be defeated if the monopine retains its stealth design in a manner that a reasonable person would continue to view the intended stealth design as effective. Second, a requirement that the facility remain hidden behind a tree line is not a feature of a stealth-designed facility; rather it is an aesthetic condition that falls under Section 1.6100(b)(7)(vi). Under that analysis, as explained in greater detail below, a proposed modification within the thresholds of Section 1.6100(b)(7)(i) through (iv) that makes the monopine visible above the tree line likely would be permitted under Section 1.6100(b)(7)(vi).

E. Conditions Associated With the Siting Approval

31. Section 1.6100(b)(7)(vi) states that a modification is a substantial increase if ''[i]t does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in § 1.61001(b)(7)(i) through (iv).'' Industry commenters argue that changes specifically allowed under Section 1.6100(b)(7)(i) through (iv) should not constitute a substantial change under Section 1.6100(b)(7)(vi). For example, the record shows that some localities claim that small increases in the size of a structure, such as increasing its height or increasing the width of its cannister, are a substantial change because they wrongly characterize any increase to a structure's visual profile or negative aesthetic impact as defeating a concealment element—even if the size changes would be within the allowances under the Commission's rules.

32. Conditions associated with the siting approval under Section 1.6100(b)(7)(vi) may relate to improving the aesthetics, or minimizing the visual impact, of non-stealth facilities (facilities not addressed under Section 1.6100(b)(7)(v)). However, localities cannot merely assert that a detail or feature of the facility was a condition of the siting approval; there must be express evidence that at the time of approval the locality required the feature and conditioned approval upon its continuing existence in order for non-compliance with the condition to disqualify a modification from being an eligible facilities request. Even so, like any other condition under Section 1.6100(b)(7)(vi), such an aesthetics-related condition still cannot be used to prevent modifications specifically allowed under Section 1.6100(b)(7)(i) through (iv) of the Commission's rules. Consistent with ''commonplace [ ] statutory construction that the specific governs the general,'' the Commission clarifies that where there is a conflict between a locality's general ability to impose conditions under (vi) and modifications specifically deemed not substantial under (i)–(iv), the conditions under (vi) should be enforced only to the extent that they do not prevent the modification in (i)–(iv). In other words, when a proposed modification otherwise permissible under Section 1.6100(b)(7)(i) through (iv) cannot reasonably comply with conditions under Section 1.6100(b)(7)(vi), the conflict should be resolved in favor of permitting the modifications. For example, a local government's condition of approval that requires a specifically sized shroud around an antenna could limit an increase in antenna size that is otherwise permissible under Section 1.6100(b)(7)(i). Under Section 1.6100(b)(7)(vi), however, the size limit of the shroud would not be enforceable if it purported to prevent a modification to add a larger antenna, but a local government could enforce its shrouding condition if the provider reasonably could install a larger shroud to cover the larger antenna and thus meet the purpose of the condition.

33. By providing guidance on the relationship between Section 1.6100(b)(7)(i) through (iv) and 1.6100(b)(7)(vi), including the limitations on conditions that a locality may impose, the Commission expects there to be fewer cases where conditions, especially aesthetic conditions, are improperly used to prevent modifications otherwise expressly allowed under Section 1.6100(b)(7)(i) through (iv). The Commission reaffirms that beyond the specific conditions that localities may impose through Section 1.6100(b)(7)(vi), localities can enforce ''generally applicable building, structural, electrical, and safety codes'' and ''other laws codifying objective standards reasonably related to health and safety.''

34. *Examples of Aesthetics Related Conditions.* Petitioners and both industry and locality commenters have provided numerous examples of disputes involving modifications to wireless facilities. Using examples from the record, and assuming that the locality has previously imposed an aesthetic-related condition under Section 1.6100(b)(7)(vi), the Commission offers examples to provide guidance on the validity of the condition to decrease future disputes and to help inform resolution of disputes should they arise:

- If a city has an aesthetic-related condition that specified a three-foot shroud cover for a three-foot antenna, the city could not prevent the replacement of the original antenna with a four-foot antenna otherwise permissible under Section 1.6100(b)(7)(i) because the new antenna cannot fit in the shroud. As described above, if there was express evidence that the shroud was a condition of approval, the city could enforce its shrouding condition if the provider reasonably could install a four-foot shroud to cover the new four-foot antenna. The city also could enforce a shrouding requirement that is not size-specific and that does not limit modifications allowed under Section 1.6100(b)(7)(i) through (iv).
- T-Mobile claims that some localities consider existing walls and fences around non-camouflaged towers to be concealment elements that have been defeated if new equipment is visible over those walls or fences. First, such conditions are not concealment elements; rather, they are considered aesthetic conditions under Section 1.6100(b)(7)(vi). Such conditions may not prevent modifications specifically allowed by Section 1.6100(b)(7)(i) through (iv). However, if there were express evidence that the wall or fence were conditions of approval to fully obscure the original equipment from view, the locality may require a provider to make reasonable efforts to extend the wall or fence to maintain the covering of the equipment.
- If an original siting approval specified that a tower must remain hidden behind a tree line, a proposed modification within the thresholds of Section 1.6100(b)(7)(i) through (iv) that makes the tower visible above the tree line would be permitted under Section 1.6100(b)(7)(vi), because the provider cannot reasonably replace a grove of mature trees with a grove of taller mature trees to maintain the absolute hiding of the tower.
- In a similar vein, San Francisco has conditions to reduce the visual impact of a wireless facility, including that it must be set back from the roof at the front building wall. San Francisco states that it will not approve a modification if the new equipment to be installed does not meet the set back requirement. Even if a proposed modification within the thresholds of Section 1.6100(b)(7)(i) through (iv) exceeds the required set back, San Francisco could enforce its set back condition if the provider reasonably could take other steps to reduce the visual impact of the facility to meet the purpose of its condition.

F. Environmental Assessments After Execution of Memorandum of Agreement

35. The Commission's environmental rules implementing the National Environmental Policy Act categorically exclude all actions from environmental evaluations, including the preparation of an environmental assessment, except for defined actions associated with the construction of facilities that may significantly affect the environment. Pursuant to Section 1.1307(a) of the Commission's rules, applicants currently submit an environmental assessment for those facilities that fall

within specific categories, including facilities that may affect historic properties protected under the National Historic Preservation Act. Under the Commission's current process, an applicant submits an environmental assessment for facilities that may affect historic properties, even if the applicant has executed a memorandum of agreement with affected parties to address those adverse effects.

36. The Commission clarifies on its own motion that an environmental assessment is not needed when the FCC and applicants have entered into a memorandum of agreement to mitigate effects of a proposed undertaking on historic properties, consistent with Section VII.D of the Wireless Facilities Nationwide Programmatic Agreement, if the only basis for the preparation of an environmental assessment was the potential for significant effects on such properties. The Commission expects this clarification should further streamline the environmental review process.

37. Section 1.1307(a)(4) of the Commission's rules requires an environmental assessment if a proposed communications facility may have a significant effect on a historic property. The Commission adopted a process to identify potential effects on historic properties by codifying the Wireless Facilities Nationwide Programmatic Agreement as the means to comply with Section 106 of the National Historic Preservation Act. If adverse effects on historic properties are identified during this process, the Wireless Facilities Nationwide Programmatic Agreement requires that the applicant consult with the State Historic Preservation Officer and/or Tribal Historic Preservation Officer, and other interested parties to avoid, minimize, or mitigate the adverse effects.

38. When such effects cannot be avoided, under the terms of the Wireless Facilities Nationwide Programmatic Agreement, the applicant, the State Historic Preservation Officer and/or Tribal Historic Preservation Officer, and other interested parties may proceed to negotiate a memorandum of agreement that the signatories agree fully mitigates all adverse effects. The agreement is then sent to Commission staff for review and signature. Under current practice, even after a memorandum of agreement is executed, an applicant is still required to prepare an environmental assessment and file it with the Commission. The Commission subsequently places the environmental assessment on public notice, and the public has 30 days to file comments/oppositions. If the environmental assessment is determined to be sufficient and no comments or oppositions are filed, the Commission issues a Finding of No Significant Impact and allows an applicant to proceed with the project.

39. In this *Declaratory Ruling* the Commission clarifies that an environmental assessment is unnecessary after an adverse effect on a historic property is mitigated by a memorandum of agreement. Applicants already are required to consider alternatives to avoid adverse effects prior to executing a memorandum of agreement. The executed agreement demonstrates that the applicant: Has notified the public of the proposed undertaking; has consulted with the State Historic Preservation Officer and/or Tribal Historic Preservation Officers, and other interested parties to identify potentially affected historic properties; and has worked with such parties to agree on a plan to mitigate adverse effects. This mitigation eliminates any significant adverse effects on a historic property, and each memorandum of agreement must include as a standard provision that the memorandum of agreement ''shall constitute full, complete, and adequate mitigation under the NHPA . . . and the FCC's rules.''

40. The Commission notes that Section 1.1307(a) requires an applicant to submit an environmental assessment if a facility ''may significantly affect the environment,'' which includes facilities that may affect historic properties, endangered species, or critical habitats. As a result of the mitigation required by a memorandum of agreement, the Commission concludes that any effects on historic properties remaining after the agreement is executed would be below the threshold of ''significance'' to trigger an environmental assessment. After the memorandum of agreement is executed, a proposed facility should no longer ''have adverse effects on identified historic properties'' within the meaning of Section 1.1307(a)(4) and, therefore, should no longer be within the ''types of facilities that may significantly affect the environment.'' If none of the other criteria for requiring an environmental assessment in Section 1.1307(a) exist, then such facilities automatically fall into the broad category of actions that the Commission has already found to ''have no significant effect on the quality of the human environment and are categorically excluded from environmental processing.'' The Commission's rules should be read in light of the scope of the Commission's obligation under Section 106 and the ACHP's rules, which explicitly state that such a memorandum of agreement ''evidences the agency official's compliance with section 106.'' The Commission reminds applicants that an environmental assessment is still required if the proposed project may significantly affect the environment in ways unrelated to historic properties.

II. Procedural Matters

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

42. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this *Declaratory Ruling* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

III. Ordering Clauses

43. Accordingly, *it is ordered,* pursuant to Sections 1, 4(i)–(j), 7, 201, 253, 301, 303, 309, 319, and 332 of the Communications Act of 1934, as amended, and Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, as amended, 47 U.S.C. 151, 154(i) through (j), 157, 201, 253, 301, 303, 309, 319, 332, 1455 that this *Declaratory Ruling* in WT Docket No. 19–250 and RM–11849 *Is* hereby *Adopted*.

44. *It is further ordered* that this *Declaratory Ruling shall be* effective upon release. It is the Commission's intention in adopting the foregoing *Declaratory Ruling* that, if any provision of the *Declaratory Ruling,* or the application thereof to any person or circumstance, is held to be unlawful, the remaining portions of such *Declaratory Ruling* not deemed unlawful, and the application of such *Declaratory Ruling* to other person or circumstances, shall remain in effect to the fullest extent permitted by law.

45. *It is further ordered* that, pursuant to 47 CFR 1.4(b)(1), the period for filing petitions for reconsideration or petitions for judicial review of this *Declaratory Ruling* will commence on

the date that this *Declaratory Ruling* is released.

46. *It is further ordered* that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, *Shall Send* a copy of this *Declaratory Ruling* to the Chief Counsel for Advocacy of the Small Business Administration.

47. *It is further ordered* that this *Declaratory Ruling shall be* sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2020–13951 Filed 7–24–20; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 85, No. 144
Monday, July 27, 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 VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AQ74

Educational Assistance for Certain Former Members of the Armed Forces

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations that govern scholarships to certain health care professionals. This rulemaking would implement the mandates of the Consolidated Appropriations Act 2018 by establishing a pilot program to provide educational assistance to certain former members of the Armed Forces for education and training leading to a degree as a physician assistant.

DATES: Comments must be received on or before September 25, 2020.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand-delivery to: Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1064, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free telephone number.) Comments should indicate that they are submitted in response to ''RIN 2900–AQ74—Educational Assistance for Certain Former Members of the Armed Forces.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1064, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free telephone number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Scot Burroughs, Acting Director Physician Assistant Services. 810 Vermont Avenue NW, Washington, DC 20420, *Scot.burroughs@va.gov,* (319) 358–0581 extension 4860. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 23, 2018, section 246 of Public Law 115–141, the Consolidated Appropriations Act, 2018, established a pilot program that would provide educational assistance to certain former members of the Armed Forces for education and training leading to employment as a VA physician assistant, the Educational Assistance for Certain Former Members of the Armed Forces (EACFMAF) program. See also 38 United States Code (U.S.C.) 7601 Note (2018) Physician Assistant Education and Training Pilot Program for Former Members of the Armed Forces. Several branches of the Armed Forces train individuals to perform the duties of a physician assistant without the required educational training. The EACFMAF would allow such individuals the opportunity to complete their education and training in order to be employed by VA as a physician assistant. The EACFMAF would increase access to VA health care by utilizing a veteran workforce that has received training as a physician assistant in the Armed Forces. The Consolidated Appropriations Act sets forth the eligibility criteria, the types of available funding, established an agreement to be met by the participants, as well as the consequences for a breach in such agreement. This proposed rule would establish the regulations needed to carry out the EACFMAF. Immediately following title 38 of the Code of Federal Regulations (CFR) 17.531, we would add a new undesignated center heading titled ''Educational Assistance for Certain Former Members of the Armed Forces'' and add new §§ 17.535 through 17.539 as discussed in further detail below.

Section 17.535 Purpose

Proposed § 17.535 would establish the purpose for §§ 17.535 through 17.539, which would establish the EACFMAF program. We would state that the ''EACFMAF will provide funding to certain former members of the Armed Forces for the education and training leading to employment as a VA physician assistant.'' This would be consistent with in section 246(a) of the Consolidated Appropriations Act, 2018.

Section 17.536 Eligibility

Proposed § 17.536 would restate the eligibility requirements for participants in the EACFMAF found in section 246(b) of the Consolidated Appropriations Act, 2018. Although section 246(b) of the Consolidated Appropriations Act, 2018 does not indicate that the type of discharge from service that the individual must have in order to participate in the EACFMAF, we believe that the intent of the Public Law is to assist those individuals who were discharged under conditions other than dishonorable. This is the same condition of the definition of the term ''veteran'' in 38 U.S.C. 101(2). We would mirror this language in proposed § 17.536 by stating that an individual must be a former member of the Armed Forces who was discharged or released therefrom under conditions other than dishonorable.

We would also state in proposed paragraph (a) that an individual is eligible to participate in the EACFMAF if they meet one of the following criteria while they were a member of the armed forces. The first criteria is that the individual has medical or military health experience gained while serving as a member of the Armed Forces. This military experience would be determined by the individual's DD214, Military Occupational Specialty, or other official documentation. The second criteria would be that the individual has received a certificate, associate degree, baccalaureate degree, master's degree, or post baccalaureate training in a science relating to health care. Such degrees may include majors in biology, anatomy and physiology, and other such related fields. The third criteria would be that the individual has participated in the delivery of health care services or related medical services, including participation in military training relating to the identification, evaluation, treatment, and prevention of disease and disorders. This criterial would include direct patient health care and training in the delivery of such health care.

We would also establish the school requirements that the individual must meet in order to be eligible for the EACFMAF. The requirements would be

that the individual must be unconditionally accepted for enrollment or be enrolled as a full-time student in an accredited school located in a State; be pursuing a degree leading to employment as a physician assistant; be a citizen of the United States; and submit an application to participate in the Scholarship Program together with a signed contract. These school requirements are in alignment with similar VA scholarship programs. See 38 CFR 17.602.

Section 17.537 Award Procedures

Proposed paragraph (a) would restate the priority for selection of participants for the EACFMAF found in section 246(d)(2) of the Consolidated Appropriations Act, 2018. Also, under section 401(a) of Public Law 115–182, the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018, or the VA MISSION Act of 2018, Congress mandated VA to ''develop criteria to designate medical centers, ambulatory care facilities, and community based outpatient clinics of the Department of Veterans Affairs as underserved facilities.'' In addition to stating that a VA medical facility located in a community that is designated as medically underserved under 42 U.S.C 245b(b)(3)(A), would include those VA medical facilities that VA has determined as medically underserved. Given section 401 of the VA Mission Act of 2018 was established after the Consolidated Appropriations Act of 2018, VA believes that it is also necessary to give preference to those VA medical facilities. We would, therefore, state that VA would give priority to eligible individuals who ''agree to be employed as physician assistants in a VA medical facility that: Is located in a community that is designated as a medically underserved population under 42 U.S.C. 254b(b)(3)(A); Is designated by VA as a medically underserved facility; and Is in a State with a per capita population of veterans of more than five percent, according to the National Center for Veterans Analysis and Statistics and the United States Census Bureau.''

Proposed paragraph (b) would restate the type of educational assistance that would be available to eligible individuals, which is found in section 246(e) of the Consolidated Appropriations Act, 2018. We would state that VA will provide educational assistance to individuals who participate in the EACFMAF to cover the costs of such individuals obtaining a master's degree in physician assistant studies or similar master's degree for a period of one to three years. We would say or similar master's degree because most educational programs are graduate programs leading to the award of master's degrees in either physician assistant studies (MPAS), Health Science (MHS), or Medical Science (MMSc), and require a bachelor's degree for entry. Keeping in line with the administration of similar VA scholarship programs managed by 38 U.S.C. 7601, we would also state that the payments to scholarship participants are exempt from Federal taxation and that the payments will consist of: Tuition and required fees; Other educational expenses, including books and laboratory equipment. See 38 CFR 17.606(a).

Section 17.538 Agreement and Obligated Service

Proposed § 17.538 would establish the agreement and obligated service that an eligible individual must adhere to comply with the EACFMAF. Section 246(f) of the Consolidated Appropriations Act, 2018 states that VA shall enter into an agreement with each individual participating in the pilot program in which such individual agrees to be employed as a physician assistant for the Veterans Health Administration for a period of obligated service to be determined by the Secretary. Proposed § 17.538(a) would specify the details of the agreement. We would state that the eligible individual must agree to maintain enrollment, attendance, and acceptable level of academic standing as defined by the school; Complete a master's degree in physician assistant studies or similar master's degree; and Be employed as a full-time clinical practice employee in VA as a physician assistant for a period of obligated service for one calendar year for each school year or part thereof for which the EACFMAF was awarded, but for no less than three years. For example, if VA awarded an individual EACFMAF for two and a half years, the individual's period of obligated service would be three years. Although these requirements are not specifically stated in section 246(f) of the Consolidated Appropriations Act, 2018, this language is consistent with the agreement of similar scholarship programs. See 38 CFR 17.632.

Proposed § 17.538(b)(1) would specify the requirements of the obligated service. An eligible individual's obligated service would commence on the date that such individual begins full-time permanent employment with VA as a clinical practice employee as a physician assistant, but no later than 90 days after the date that the eligible individual completes a master's degree in physician assistant studies or similar master's degree. This requirement is consistent with similar scholarship programs. See 38 CFR 17.607(b). Because of changing access needs within VA, VA reserves the right to make the final decision as to where an individual would perform their period of obligated service that meets the requirements of section 246. We would state this condition in proposed § 17.538(b)(2). Also, the location of the obligated service may not necessarily be within the commuting area of where the eligible individual resides. We would, therefore, state in proposed § 17.538(b)(2) that VA reserves the right to make final decisions on the location and position of the obligated service. An eligible individual who receives an EACFMAF must be willing to relocate to another geographic location to carry out their service obligation. The relocation of the eligible individual would be at such individual's expense. This language is consistent with similar scholarship programs. See 38 CFR 17.607(d).

Section 17.539 Failure To Comply with Terms and Conditions of Agreement

Proposed paragraph § 17.539(a) would establish the consequences for failure to satisfy the terms and conditions of the participant's agreement. The breach of the terms of agreement are stated in section 246(g) of the Consolidated Appropriations Act, 2018. We would restate section 246(g) in proposed paragraph § 17.536(a) with minor technical edits for clarity. We would state that If an eligible individual who accepts funding for the EACFMAF fails to satisfy the terms of agreement, the United States is entitled to recover damages in an amount equal to the total amount of EACFMAF funding paid or is payable to or on behalf of the individual, reduced by the total number of obligated service days the individual has already served minus the total number of days in the individual's period of obligated service.

Section 246 of the Consolidated Appropriations Act, 2018 does not establish a time frame for when an eligible individual will repay the amount of damages when such eligible individual breaches their terms of agreement. We would mirror the repayment period language from similar scholarship programs in proposed § 17.539(b). See 38 U.S.C. 7617(c)(2) and 38 CFR 17.610(c). We would state that an eligible individual will pay the amount of damages that the United

States is entitled to recover under this section in full to the United States no later than one year after the date of the breach of the agreement. Because VA has provided the repayment requirements up front, we believe that a one-year period is sufficient time for the individual to repay the amount of funds granted by the EACFMAF and such time frame is consistent with similar scholarship programs.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. This proposed rule includes provisions constituting an amendment of an existing collection of information under the Paperwork Reduction Act of 1995 that require approval by the OMB. The existing OMB control number that will be amended by this action is 2900–0793. Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review.

OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Proposed 38 CFR 17.538 contains a collection of information under the Paperwork Reduction Act of 1995. If OMB does not approve the collection of information as requested, VA will immediately remove the provision containing a collection of information or take such other action as is directed by OMB.

Comments on the collection of information contained in this proposed rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to the Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Room 1064, Washington, DC 20420; fax to (202) 273–9026; or through *www.Regulations.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AQ74 Educational Assistance for Certain Former Members of the Armed Forces.''

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if the comment is received within 30 days of publication. This does not affect the 60-day deadline for the public to comment on the proposed rule.

VA considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The collections of information contained in 38 CFR 17.538 are described immediately following this paragraph, under their respective titles. For the proposed collection of information below, VA used general wage data from the Bureau of Labor Statistics (BLS) to estimate the respondents' costs associated with completing the information collection. According to the latest available BLS data, the mean hourly wage of full-time wage and salary workers was $24.98 based on the BLS wage code—''00–0000 All Occupations.'' This information was taken from the following website: *https://www.bls.gov/oes/2018/may/oes_nat.htm* May 2018.

Title: Educational Assistance for Certain Former Members of the Armed Forces.

OMB Control No.: 2900–0793.

CFR Provision: 38 CFR 17.538.

Summary of collection of information: The EACFMAF provides funding for the medical education of eligible individuals who enroll in a master's degree in physician assistant studies or similar master's degree program. As part of the EACFMAF, the eligible individual agrees to a period of obligated service with VA for a period of no less than 3 years. The information collected under this section would comprise an agreement between VA and the eligible individual who accepts funding for the EACFMAF.

Description of the need for information and proposed use of information: The agreement between VA and the eligible individual would hold the eligible individual accountable for upholding the terms and conditions of the agreement and alert the eligible individual of the consequences of a breach in the agreement.

Description of likely respondents: Eligible individuals who are accepted for participation in the EACFMAF.

Estimated number of respondents per month/year: 100.

Estimated frequency of responses per month/year: 1 per year.

Estimated average burden per response: 4 hours.

Estimated total annual reporting and recordkeeping burden: 400 hours.

Estimated cost to respondents per year: VA estimates the total cost to all respondents to be $ 9,992 per year (400 burden hours × $24.98 per hour). Legally, respondents may not pay a person or business for assistance in completing the information collection. Therefore, there are no expected overhead costs to respondents for completing the information collection.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rulemaking does not change VA's policy regarding small businesses, does not have an economic impact to individual businesses, and there are no increased or decreased costs to small business entities. On this basis, the proposed rule would not have an economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Executive Orders 12866, 13563 and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic,

environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866.

VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm* by following the link for VA Regulations Published from FY 2004 through Fiscal Year to Date.

This proposed rule is not subject to the requirements of E.O. 13771 because this rule is not significant under E.O. 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

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).

Catalog of Federal Domestic Assistance

There are no Catalog of Federal Domestic Assistance numbers and titles for this rule.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Health care, Health facilities, Health professions, Scholarships and fellowships.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Brooks D. Tucker, Acting Chief of Staff, Department of Veterans Affairs, approved this document on July 20, 2020, for publication.

Consuela Benjamin,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons set forth in the preamble, we propose to amend 38 CFR part 17 as follows:

PART 17—MEDICAL

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

Authority: 38 U.S.C. 501, and as noted in specific sections.

* * * * *

Sections 17.535 through 17.539 are also issued under Public Law 115–141, sec. 246.

* * * * *

■ 2. Add an undesignated center heading immediately following § 17.531 and new §§ 17.535 through 17.539 to read as follows.

Educational Assistance for Certain Former Members of the Armed Forces

Sec.

§ 17.535 Purpose.

The purpose of §§ 17.535 through 17.539 is to establish the Educational Assistance for Certain Former Members of the Armed Forces (EACFMAF). The EACFMAF will provide a scholarship to certain former members of the Armed Forces for the education and training leading to employment as a VA physician assistant.

§ 17.536 Eligibility.

(a) *Military and Training requirements.* An individual is eligible to participate in the EACFMAF if such individual is a former member of the Armed Forces who was discharged or released therefrom under conditions other than dishonorable and meets the following criteria:

(1) Has medical or military health experience gained while serving as a member of the Armed Forces;

(2) Has received a certificate, associate degree, baccalaureate degree, master's degree, or post baccalaureate training in a science relating to health care; or

(3) Has participated in the delivery of health care services or related medical services, including participation in military training relating to the identification, evaluation, treatment, and prevention of disease and disorders.

(b) *School and Individual requirements.* To be eligible for the EACFMAF, an applicant must:

(1) Be unconditionally accepted for enrollment or be enrolled as a full-time student in an accredited school located in a State;

(2) Be pursuing a degree leading to employment as a physician assistant;

(3) Be a citizen of the United States; and

(4) Submit an application to participate in the Scholarship Program together with a signed contract.

§ 17.537 Award procedures.

(a) *Priority.* In awarding EACFMAF, VA will give priority to eligible individuals who agree to be employed as physician assistants in a VA medical facility that:

(1) Is located in a community that is designated as a medically underserved population under 42 U.S.C. 254b(b)(3)(A);

(2) Is designated by VA as a medically underserved facility; and

(3) Is in a State with a per capita population of veterans of more than five percent, according to the National Center for Veterans Analysis and Statistics and the United States Census Bureau.

(b) *Amount of funds.* VA will provide a scholarship to individuals who participate in the EACFMAF to cover the costs of such individuals obtaining a master's degree in physician assistant studies or similar master's degree for a period of one to three years. All such payments to scholarship participants are exempt from Federal taxation. The payments will consist of:

(i) Tuition and required fees;

(ii) Other educational expenses, including books and laboratory equipment.

§ 17.538 Agreement and obligated service.

(a) *Agreement.* Each eligible individual who accepts funds from the EACFMAF will enter into an agreement with VA where the eligible individual agrees to the following:

(1) Maintain enrollment, attendance, and acceptable level of academic standing as defined by the school;

(2) Complete a master's degree in physician assistant studies or similar master's degree; and

(3) Be employed as a full-time clinical practice employee in VA as a physician assistant for a period of obligated service for one calendar year for each school year or part thereof for which the EACFMAF was awarded, but for no less than three years.

(b) *Obligated service.* (1) *General.* An eligible individual's obligated service will begin on the date on which the eligible individual begins full-time permanent employment with VA as a clinical practice employee as a physician assistant, but no later than 90 days after the date that the eligible individual completes a master's degree in physician assistant studies or similar master's degree, or the date the eligible individual becomes licensed in a State and certified as required by the Secretary, whichever is later. VA will actively assist and monitor eligible individuals to ensure State licenses and certificates are obtained in a minimal amount of time following graduation. If an eligible individual fails to obtain his or her degree, or fails to become licensed in a State or become certified no later than 180 days after receiving the degree, the eligible individual is considered to be in breach of the acceptance agreement.

(2) *Location and position of obligated service.* VA reserves the right to make final decisions on the location and position of the obligated service. An eligible individual who receives an EACFMAF must be willing to relocate to another geographic location to carry out their service obligation.

(The Office of Management and Budget has approved the information collection requirements in this section under control number XXXX–XXXX.)

§ 17.539 Failure to comply with terms and conditions of agreement.

(a) *Participant fails to satisfy terms of agreement.* If an eligible individual who accepts funding for the EACFMAF fails to satisfy the terms of agreement, the United States is entitled to recover damages in an amount equal to the total amount of EACFMAF funding paid or is payable to or on behalf of the individual, reduced by the total number of obligated service days the individual has already served minus the total number of days in the individual's period of obligated service.

(b) *Repayment period.* The eligible individual will pay the amount of damages that the United States is entitled to recover under this section in full to the United States no later than one year after the date of the breach of the agreement.

[FR Doc. 2020–15989 Filed 7–24–20; 8:45 am]

BILLING CODE 8320–01–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3050

[Docket No. RM2020–11; Order No. 5587]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is acknowledging a recent filing requesting the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports (Proposal Four). This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 14, 2020.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On July 13, 2020, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports.[1] The Petition identifies the proposed analytical changes filed in this docket as Proposal Four.

II. Proposal Four

Background. Proposal Four relates to the methodology used in International Cost and Revenue Analysis (ICRA) reporting to distribute international mail settlement expenses to international mail categories. Petition, Proposal Four at 1. The Postal Service reports outbound settlement costs in two General Ledger accounts: account no. 53298 (INTERNATIONAL–FOREIGN POST EXPENSE (OTHER)) and account no. 53299 (INTERNATIONAL–FOREIGN POST EXPENSE (AIR)). *Id.* Currently, the Postal Service applies a single benchmark factor to all of the products and sub-products in each of these two accounts. *Id.* The Postal Service also filed a detailed assessment of the impact of the proposal on particular products in a non-public attachment accompanying this proposal.[2]

Proposal. The Postal Service's proposal seeks to replace the existing methodology which uses a single benchmark factor for each account with an approach that benchmarks to eight product and sub-product categories within the two settlement expense accounts. Petition, Proposal Four at 1–2. The Postal Service states that the proposal would use additional Foreign Postal Settlement (FPS) mail category item-and weight-component expense data to develop these benchmarks. *Id.* at 1. The Postal Service avers that the structure for more detailed benchmarking already existed in the ICRA but required more detailed information that is now available from FPS. *Id.* at 3.

Rationale and impact. The Postal Service contends that the proposed methodology will improve ICRA reporting by providing ''a finer level of mail category detail.'' *Id* at 2. The Postal Service states that the proposed methodology ''eliminates the need to use single account-level factors to benchmark the expense amounts across all mail categories[,]'' and instead uses additional FPS data to report settlement expenses that are ''directly related'' to the eight product and sub-product categories in the two outbound settlement expense accounts. *Id.*

The Postal Service states that the proposed methodology would shift $7 million of expenses in FY 2019 from market dominant to competitive products. *Id.* The Postal Service characterizes this impact as ''relatively modest.'' *Id.*

III. Notice and Comment

The Commission establishes Docket No. RM2020–11 for consideration of matters raised by the Petition. More information on the Petition may be accessed via the Commission's website at *http://www.prc.gov.* Interested persons may submit comments on the Petition and Proposal Four no later than August 14, 2020. Pursuant to 39 U.S.C. 505, Gregory Stanton is designated as an

[1] Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Four), July 13, 2020 (Petition). The Postal Service also filed a notice of non-public materials relating to Proposal Four. Notice of Filing of USPS–RM2020–11–NP1 and Application for Nonpublic Treatment, July 13, 2020.

[2] *See* Library Reference USPS–RM2020–11–NP1.

officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2020–11 for consideration of the matters raised by the Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Four), filed July 13, 2020.

2. Comments by interested persons in this proceeding are due no later than August 14, 2020.[3]

3. Pursuant to 39 U.S.C. 505, the Commission appoints Gregory Stanton to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2020–15740 Filed 7–24–20; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2020–0284; FRL–10012–45–Region 1]

Air Plan Approval; Maine; Midcoast Area and Portland Second 10-Year Limited Maintenance Plans for 1997 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Maine. On February 18, 2020, the State submitted their 1997 ozone national ambient air quality standards (NAAQS) Limited Maintenance Plans (LMPs) for the Portland and Midcoast areas. EPA is proposing to approve the Portland and Midcoast LMPs because they provide for the maintenance of the 1997 ozone NAAQS through the end of the second 10-year portion of the maintenance period. The effect of this action will be to make certain commitments related to maintenance of the 1997 ozone NAAQS in the Portland and Midcoast maintenance areas part of the Maine SIP and therefore federally enforceable.

DATES: Written comments must be received on or before August 26, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2020–0284 at *https://www.regulations.gov,* or via email to *rackauskas.eric@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* Publicly available docket materials are available at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: Eric Rackauskas, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05–2), Boston, MA 02109–3912, tel. (617) 918–1628, email *rackauskas.eric@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

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I. Summary of EPA's Action

Under the CAA, EPA is proposing to approve Limited Maintenance Plans (LMP) for the Portland and Midcoast maintenance areas for the 1997 ozone NAAQS, submitted as a revision to the Maine State Implementation Plan (SIP) on February 18, 2020. The Portland area under the 1997 ozone NAAQS is comprised of 57 cities and towns in York, Cumberland and Sagadahoc Counties along with Durham, Maine in Androscoggin County. The Midcoast area is made up of 55 coastal towns and islands in Hancock, Knox, Lincoln and Waldo counties. On June 15, 2004, the Portland and Midcoast areas were designated as nonattainment areas for the 1997 ozone NAAQS. On January 10, 2007, the areas were redesignated to attainment with that standard.

The Portland and Midcoast areas' LMPs for the 1997 ozone NAAQS submitted by Maine DEP are designed to maintain the 1997 ozone NAAQS within these areas through the end of the second ten-year period of the maintenance period. We are proposing to approve the plans because they meet all applicable requirements under CAA sections 110 and 175A.

II. Background

Ground-level ozone is formed when oxides of nitrogen (NO_X) and volatile organic compounds (VOC) react in the presence of sunlight. These two pollutants, referred to as ozone precursors, are emitted by many types of pollution sources, including on- and off-road motor vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment and paints. Scientific evidence indicates that adverse public

[3] The Commission reminds interested persons that its revised and reorganized Rules of Practice and Procedure became effective April 20, 2020, and should be used in filings with the Commission after April 20, 2020. The new rules are available on the Commission's website and can be found in Order No. 5407. Docket No. RM2019–13, Order Reorganizing Commission Regulations and Amending Rules of Practice, January 16, 2020 (Order No. 5407).

health effects occur following exposure to ozone, particularly in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases.

Ozone exposure also has been associated with increased susceptibility to respiratory infections, medication use, doctor and emergency department visits and hospital admissions for individuals with lung disease. Ozone exposure also increases the risk of premature death from heart or lung disease. Children are at increased risk from exposure to ozone because their lungs are still developing and they are more likely to be active outdoors, which increases their exposure.[1]

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997, EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. 62 FR 38856 (July 18, 1997).[2] The EPA set the 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set. EPA determined that the 8-hour standard would be more protective of human health, especially for children and adults who are active outdoors, and individuals with a preexisting respiratory disease, such as asthma.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 15, 2004, EPA designated the Portland and Midcoast areas as nonattainment for the 1997 ozone NAAQS, and the designations became effective on June 15, 2004. Under the CAA, states are also required to adopt and submit SIPs to implement, maintain, and enforce the NAAQS in designated nonattainment areas and throughout the state.

When a nonattainment area has three years of complete, certified air quality data that has been determined to attain the 1997 ozone NAAQS, and the area has met other required criteria described in section 107(d)(3)(E) of the CAA, the state can submit to the EPA a request to be redesignated to attainment, referred to as a ''maintenance area''.[3] One of the criteria for redesignation is to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the standard for the period extending 10 years after redesignation and must contain such additional measures as necessary to ensure maintenance and such contingency provisions as necessary to assure that violations of the standard will be promptly corrected. At the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional ten years. CAA section 175A.

EPA has published long-standing guidance for states on developing maintenance plans.[4] The Calcagni memo provides that states may generally demonstrate maintenance by either performing air quality modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (*i.e.,* attainment year inventory). EPA clarified in three subsequent guidance memos that certain nonattainment areas could meet the CAA section 175A requirement to provide for maintenance by demonstrating that the area's design value[5] was well below the NAAQS and that the historical stability of the area's air quality levels showed that the area was unlikely to violate the NAAQS in the future.[6] EPA refers to this streamlined demonstration of maintenance as an LMP. EPA has interpreted CAA section 175A as permitting this option because section 175A of the Act defines few specific content requirements for maintenance plans, and in EPA's experience implementing the various NAAQS, areas that qualify for an LMP and have approved LMPs have rarely, if ever, experienced subsequent violations of the NAAQS. As noted in the LMP guidance memoranda, states seeking an LMP must still submit the other maintenance plan elements outlined in the Calcagni memo, including: An attainment emissions inventory, provisions for the continued operation of the ambient air quality monitoring network, verification of continued attainment, and a contingency plan in the event of a future violation of the NAAQS. Moreover, states seeking an LMP must still submit their section 175A maintenance plan as a revision to their state implementation plan, with all attendant notice and comment procedures.

While the LMP guidance memoranda were originally written with respect to certain NAAQS,[7] EPA has extended the LMP interpretation of section 175A to other NAAQS and pollutants not specifically covered by the previous guidance memos.[8] In this case, EPA is proposing to approve Maine's LMP, because the State has made a showing, consistent with EPA's prior LMP guidance, that the area's ozone concentrations are well below the 1997 ozone NAAQS and have been historically stable. Maine DEP has submitted these LMPs for the Portland and Midcoast 1997 ozone NAAQS areas to fulfill the second maintenance plan requirement in the Act. Our evaluation of the Portland and Midcoast areas 1997 ozone NAAQS LMPs is presented below.

[1] See ''Fact Sheet, Proposal to Revise the National Ambient Air Quality Standards for Ozone,'' January 6, 2010 and 75 FR 2938 (January 19, 2010).

[2] In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015).

[3] Section 107(d)(3)(E) of the CAA sets out the requirements for redesignation. They include attainment of the NAAQS, full approval under section 110(k) of the applicable SIP, determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

[4] Calcagni, John, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards, ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' September 4, 1992 (Calcagni memo).

[5] The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

[6] See ''Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas'' from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; ''Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas'' from Joseph Paisie, OAQPS, dated October 6, 1995; and ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas'' from Lydia Wegman, OAQPS, dated August 9, 2001. Copies of these guidance memoranda can be found in the docket for this proposed rulemaking.

[7] The prior memos addressed: Unclassifiable areas under the 1-hour ozone NAAQS, nonattainment areas for the PM_{10} (particulate matter with an aerodynamic diameter less than 10 microns) NAAQS, and nonattainment areas for the carbon monoxide NAAQS.

[8] See, *e.g.,* 79 FR 41900 (July 18, 2014) (Approval of second ten-year LMP for Grant County 1971 SO_2 maintenance area).

On August 3, 2006, Maine DEP submitted to EPA a request to redesignate the Portland and Midcoast nonattainment areas to attainment for the 1997 ozone NAAQS. This submittal included a plan to provide for maintenance of the 1997 ozone NAAQS in the Portland and Midcoast nonattainment areas through 2016 as a revision to the Maine SIP. EPA approved maintenance plans for the Portland and Midcoast nonattainment areas and the State's request to redesignate the Portland and Midcoast nonattainment areas to attainment for the 1997 ozone NAAQS on December 11, 2006 (71 FR 71489).

In conjunction with our approval of the Portland and Midcoast nonattainment areas 1997 ozone Maintenance Plan covering the first 10-year maintenance period, we approved various regulatory provisions adopted by the State providing for the continued implementation of the control measures relied upon for attainment, and for the authority for state agencies to implement contingency measures should the area violate the standard again during this period.

Under CAA section 175A(b), states must submit a revision to the first maintenance plan eight years after redesignation to provide for maintenance of the NAAQS for ten additional years following the end of the first 10-year period. EPA's final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and stated that one consequence of revocation was that areas that had been redesignated to attainment (*i.e.,* maintenance areas) for the 1997 standard no longer needed to submit second 10-year maintenance plans under CAA section 175A(b).[9] In *South Coast Air Quality Management District* v. *EPA,* the D.C. Circuit vacated EPA's interpretation that second maintenance plans were not required for 1997 NAAQS maintenance areas because of the revocation of that standard. *South Coast,* 882 F.3d 1138 (D.C. Cir. 2018). Thus, states with 1997 ozone NAAQS maintenance areas still must comply with the requirement to submit maintenance plans for the second maintenance period. Accordingly, on February 18, 2020, Maine submitted second maintenance plans for the Portland and Midcoast areas that show that the areas are expected to remain in attainment with the 1997 ozone NAAQS through the last year of the second 10-year maintenance period, *i.e.,* through the end of the full 20-year maintenance period.

III. Maine's SIP Submittal

On February 18, 2020, Maine DEP submitted the Portland and Midcoast areas LMPs to the EPA as a revision to the Maine SIP. The submittal includes the LMP and appendices. Appendices to the plan include air quality data, emission inventory information, air quality monitoring information, and documentation of notice, hearing, and public participation.

IV. EPA's Evaluation of Maine's SIP Submittal

A. Procedural Requirements

CAA section 110(a)(2) and 110(l) require revisions to a SIP to be adopted by the state after reasonable notice and public hearing. EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of a notice by prominent advertisement in the relevant geographic area of the proposed SIP revisions, at least a 30-day public comment period, and an opportunity for a public hearing.

Maine DEP published a notice of a 30-day comment period and notice for a public hearing for LMPs for the Portland and Midcoast maintenance areas on the State's website. On December 12, 2019, Maine DEP held a public hearing on the Portland and Midcoast areas 1997 Ozone NAAQS LMPs; no oral or written comments were submitted. Maine DEP then submitted the Portland and Midcoast areas 1997 Ozone NAAQS LMPs to EPA as a revision to the Maine SIP. The process followed by Maine DEP in adopting the Portland and Midcoast areas 1997 Ozone NAAQS LMP complies with the procedural requirements for SIP revisions under CAA section 110 and EPA's implementing regulations.

B. Substantive Requirements

EPA has reviewed the Portland and Midcoast maintenance areas 1997 Ozone NAAQS LMPs, which are designed to maintain the 1997 ozone NAAQS within the Portland and Midcoast areas through the end of the 20-year period beyond redesignation, as required under CAA section 175A(b). The following is a summary of EPA's interpretation of the requirements[10] and EPA's evaluation of how each requirement is met.

1. Attainment Emissions Inventory

For maintenance plans, a state should develop a comprehensive, accurate inventory of actual emissions for an attainment year to identify the level of emissions which is sufficient to maintain the NAAQS. A state should develop this inventory consistent with EPA's most recent guidance on emissions inventory development. For ozone, the inventory should be based on typical summer day emissions of VOCs and NO_X, as these pollutants are precursors to ozone formation. The Portland and Midcoast areas LMPs include an ozone attainment inventory for the Portland and Midcoast maintenance areas that reflects typical summer day emissions in 2005, 2014, and 2028. Tables 1 and 2 present a summary of the inventories for these years contained in the maintenance plan.

TABLE 1—SUMMER DAY TYPICAL OZONE EMISSIONS FOR THE PORTLAND MAINTENANCE AREA

[Tons/day]

Category	2005		2014		2028	
	VOC	NO_X	VOC	NO_X	VOC	NO_X
Point	4.22	10.48	2.04	4.52	2.04	4.33
Nonpoint	41.56	6.30	21.09	11.01	16.83	7.25
Mobile: Onroad	27.03	55.33	12.04	28.92	3.96	7.52
Mobile: Nonroad	20.60	12.02	11.70	6.86	8.36	4.11
Total	93.41	84.13	51.87	51.31	31.22	23.21

[9] *See* 80 FR 12315 (March 6, 2015).

[10] See Calcagni memo.

TABLE 2—SUMMER DAY TYPICAL OZONE EMISSIONS FOR THE MIDCOAST MAINTENANCE AREA

[Tons/day]

Category	2005		2014		2028	
	VOC	NO_X	VOC	NO_X	VOC	NO_X
Point	1.52	4.53	1.96	5.05	1.98	3.19
Nonpoint	14.21	3.66	5.12	4.22	4.78	3.97
Mobile: Onroad	8.66	15.30	4.41	8.82	1.17	1.60
Mobile: Nonroad	13.73	4.71	8.20	4.18	4.61	2.79
Total	38.12	28.20	19.69	22.27	12.54	11.55

Maine obtained the 2005 emission data from the Maine DEP's 2006 redesignation request as approved on December 11, 2006 (71 FR 71489). The 2014 emissions inventory information is from the EPA 2014 version 7.0 modeling platform.[11] The 2028 emissions inventory is projected from the EPA 2011 version 6.3 modeling.[12]

Based on our review of the methods, models, and assumptions used by Maine DEP to develop the VOC and NO_X estimates, we find that the Portland and Midcoast areas 1997 8-Hour Ozone NAAQS LMPs include comprehensive, reasonably accurate inventories of actual ozone precursor emissions in attainment year 2005, and conclude that the plans' inventories are acceptable for the purposes of a subsequent maintenance plans under CAA section 175A(b).

2. Maintenance Demonstration

Maine's projected emissions to 2028 show that the area will continue to maintain the NAAQS until the end of the 20-year period following redesignation. Moreover, the State also submitted information that indicates that the guidelines for an LMP have also been met. These guidelines are met if the state can provide sufficient weight of evidence indicating that air quality in the area is well below the level of the standard, that past air quality trends have been shown to be stable, and that the probability of the area experiencing a violation over the second 10-year maintenance period is low.[13] These criteria are evaluated below with regard to the Portland and Midcoast areas.

a. Evaluation of Ozone Air Quality Levels

To attain the 1997 ozone NAAQS, the three-year average of the fourth-highest daily maximum 8-hour average ozone concentrations (design value) at each monitor within an area must not exceed 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, Appendix I, the standard is attained if the design value is 0.084 ppm or below. Consistent with prior guidance, EPA believes that if the most recent air quality design value for the area is at a level that is well below the NAAQS (*e.g.,* below 85% of the standard, or in this case below 0.071 ppm), then EPA considers the state to have met the section 175A requirement for a demonstration that the area will maintain the NAAQS for the requisite period. Such a demonstration assumes continued applicability of PSD requirements, any control measures already in the SIP, and Federal measures will remain in place through the end of the second 10-year maintenance period, absent a showing consistent with section 110(l) that such measures are not necessary to assure maintenance.[14]

Table 3 presents the design values for each monitor in the Portland and Midcoast areas over the 2016–2018 period. As shown in Table 3, all sites have been well below the level of the 1997 ozone NAAQS and the most current design value is below the level of 85% of the NAAQS, consistent with prior LMP guidance.

Additional supporting information that these areas are expected to continue to maintain the standard can be found in projections of future year design values that EPA recently completed to assist states with development of interstate transport SIPs for the 2015 ozone NAAQS. Using a 2011 base year, EPA forecast ozone concentrations for 2023 under alternative scenarios that included a modified version of the ''3x3'' grid approach for those monitors located in coastal areas. Those projections, made for the year 2023 (also in Table 3), show that the highest design values of any monitor in the Portland and Midcoast areas are all expected to be well below the 85% maximum allowed value of 0.071ppm (71ppb).

TABLE 3—OZONE NAAQS DESIGN VALUES (DV)

[Parts per billion, ppb]

AQS site ID	County	2009–2013 avg DV	2009–2013 max DV	2016–2018 DV	2023 ''3x3'' max DV
230010014	Androscoggin	61.0	62	59	50.2
230052003	Cumberland	69.3	70	65	56.8
230090102	Hancock	71.7	74	70	63.2
230090103	Hancock	66.3	69	63	57.3
230112005	Kennebec	62.7	64	62	51.5
230130004	Knox	67.7	69	63	55.7

[11] The inventory documentation for this platform can be found at: *https://www.epa.gov/airemissions-modeling/2014-version-70-platform.*

[12] The inventory documentation for this platform can be found at: *https://www.epa.gov/air-emissions-modeling/2011-version-63-platform.*

[13] ''Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas'' from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; ''Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas'' from Joseph Paisie, OAQPS, dated October 6, 1995; and ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas'' from Lydia Wegman, OAQPS, dated August 9, 2001.

[14] As part of the Ozone Transport Region (OTR), the Portland and Midcoast areas are also subject to additional permitting requirements through nonattainment new source review (NNSR).

TABLE 3—OZONE NAAQS DESIGN VALUES (DV)—Continued

[Parts per billion, ppb]

AQS site ID	County	2009–2013 avg DV	2009–2013 max DV	2016–2018 DV	2023 "3x3" max DV
230173001	Oxford	54.3	55	N/A	44.3
230194008	Penobscot	57.7	59	57	47.6
230230006	Sagadahoc	61.0	61	N/A	48.7
230310038	York	60.3	62	59	49.6
230310040	York	64.3	65	61	52.0
230312002	York	73.7	75	66	61.2

Therefore, the Portland and Midcoast areas demonstration that the areas will maintain the NAAQS based on the long record of monitored ozone concentrations that attain the NAAQS, together with the continuation of existing VOC and NO_X emissions control programs, adequately provide for the maintenance of the 1997 ozone NAAQS in the Portland and Midcoast maintenance areas through the second 10-year maintenance period (and beyond).

b. Stability of Ozone Levels

As discussed above, the Portland and Midcoast areas have maintained air quality well below the 1997 ozone NAAQS over the past ten years. Additionally, the design value data shown within Table 3 illustrates that ozone levels have been relatively stable over this timeframe, with a modest downward trend. This downward trend in ozone levels, coupled with the relatively small year over year variation in ozone design values, makes it reasonable to conclude that the Portland and Midcoast areas will not exceed the 1997 ozone NAAQS during the second 10-year maintenance period.

After Maine submitted the LMPs for the Portland and Midcoast areas, EPA released the final 2017–2019 ozone design values. These values show a continued downward trend in ozone levels, with 2017–2019 design values for the Portland and Midcoast areas of 0.064 and 0.069 ppm, respectively.[15]

3. Monitoring Network and Verification of Continued Attainment

EPA periodically reviews the ozone monitoring network that Maine DEP operates and maintains, in accordance with 40 CFR part 58. This network is consistent with the ambient air monitoring network assessment and plan developed by Maine DEP that is submitted annually to EPA and that follows a public notification and review process. EPA has reviewed and approved the 2020 Ambient Air Monitoring Network Assessment and Plan.

To verify the attainment status of the area over the maintenance period, the maintenance plan should contain provisions for continued operation of an appropriate, EPA-approved monitoring network in accordance with 40 CFR part 58. As noted above, Maine DEP's monitoring network in the Portland and Midcoast areas has been approved by EPA in accordance with 40 CFR part 58, and the area has committed to continue to maintain a network in accordance with EPA requirements. For further details on monitoring, the reader is referred to the 2020 Maine DEP's Annual Network Plan found at: *https://www.maine.gov/dep/air/monitoring/docs/2020-air-monitoring-plan.pdf* as well as EPA's approval letter for the 2020 Annual Network Plan, which can be found in the docket for today's action. We believe Maine's monitoring network is adequate to verify continued attainment of the 1997 ozone NAAQS in the Portland and Midcoast areas.

4. Contingency Plan

Section 175A(d) of the Act requires that a maintenance plan include contingency provisions. The purpose of such contingency provisions is to prevent future violations of the NAAQS or promptly remedy any NAAQS violations that might occur during the maintenance period. These contingency measures do not have to be fully adopted regulations at the time of redesignation. However, the contingency plan is an enforceable part of the SIP and should ensure that the contingency measures are adopted expeditiously once they are triggered by a future violation of the NAAQS or some other trigger. The contingency plan should identify the measures to be expeditiously adopted and provide a schedule and procedure for adoption and implementation of the measures. The state should also identify specific triggers which will be used to determine when the contingency measures need to be implemented. While a violation of the NAAQS is an acceptable trigger, states may wish to choose a violation action level below the NAAQS as a trigger, such as an exceedance of the NAAQS. By taking action promptly after an exceedance occurs, a state may be able to prevent a violation of the NAAQS. Possible contingency measures identified by Maine include the following:

- Reduce the VOC content limit for cutback asphalt from 5% to 4%, and lower current VOC content limits for emulsified asphalt by 20%.
- Adopt and implement the Ozone Transport Commission 2011 Model Rule for Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations.
- Adopt and implement the Ozone Transport Commission 2012 Model Rule for Consumer Products.
- Adopt and implement the 2014 OTC Model Rule for Architectural Coatings.
- Increase enforcement of existing rules to increase rule effectiveness.

EPA proposes to find that Maine's contingency measures, as well as the commitment to continue implementing any SIP requirements, satisfy the pertinent requirements of CAA section 175A.

V. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether or not they conform. The conformity rule generally requires a demonstration that emissions from the Regional Transportation Plan (RTP) and the Transportation

[15] For EPA's full design value report please see *https://www.epa.gov/air-trends/air-quality-design-values.*

Improvement Program (TIP) are consistent with the motor vehicle emissions budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). A MVEB is defined as ''that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions (40 CFR 93.101).

Under the conformity rule, LMP areas may demonstrate conformity without a regional emission analysis (40 CFR 93.109(e)).

All actions that would require transportation conformity determinations for the Portland and Midcoast ozone maintenance areas under our transportation conformity rule provisions are considered to have already satisfied the regional emissions analysis and ''budget test'' requirements in 40 CFR 93.118 as a result of an adequacy finding for the LMP or approval of the LMP. (See 69 FR 40004, 40063 (July 1, 2004).)

However, because LMP areas are still maintenance areas, certain aspects of transportation conformity determinations still will be required for transportation plans, programs and projects. Specifically, for such determinations, RTPs, TIPs and transportation projects still will have to demonstrate that they are fiscally constrained (40 CFR 93.108), meet the criteria for consultation (40 CFR 93.105 and 40 CFR 93.112) and Transportation Control Measure (TCM) implementation in the conformity rule provisions (40 CFR 93.113). Additionally, conformity determinations for RTPs and TIPs must be determined no less frequently than every four years, and conformity of plan and TIP amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104. In addition, in order for projects to be approved they must come from a currently conforming RTP and TIP (40 CFR 93.114 and 93.115).

VI. Proposed Action and Public Comment

Under sections 110(k) and 175A of the CAA and for the reasons set forth above, EPA is proposing to approve the second 10-year LMPs for the Portland and Midcoast maintenance areas for the 1997 Ozone NAAQS, submitted by Maine DEP on February 18, 2020, as a revision to the Maine SIP. We are proposing to approve the Portland and Midcoast areas LMPs because we find that they include an acceptable update of the various elements of the 1997 ozone NAAQS Maintenance Plan approved by EPA for the first 10-year period (including emissions inventory, assurance of adequate monitoring and verification of continued attainment, and contingency provisions), and essentially carry forward all of the control measures and contingency provisions relied upon in the earlier plan.

We also find that the Portland and Midcoast areas qualify for the LMP option and that therefore the Portland and Midcoast areas 1997 Ozone NAAQS LMPs adequately demonstrate maintenance of the 1997 8-hour ozone NAAQS through documentation of monitoring data showing maximum 1997 8-hour ozone levels well below the NAAQS and continuation of existing control measures. We believe the Portland and Midcoast areas 1997 Ozone LMPs to be sufficient to provide for maintenance of the 1997 ozone NAAQS in the Portland and Midcoast areas over the second 10-year maintenance period (though 2026) and to thereby satisfy the requirements for such a plan under CAA section 175A(b).

EPA is soliciting public comments on this document and on issues relevant to EPA's proposed action. We will accept comments from the public on this proposal for the next 30 days.

VII. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

Dated: July 13, 2020.

Dennis Deziel,

Regional Administrator, EPA Region 1.

[FR Doc. 2020–15442 Filed 7–24–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2016–0590; FRL–10009–70–Region 10]

Air Plan Approval; WA; Interstate Transport Requirements for the 2010 Sulfur Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the State Implementation Plan (SIP) submission from the State of Washington (Washington) demonstrating that the SIP meets certain Clean Air Act (CAA) interstate transport requirements for the 2010 1-hour Sulfur Dioxide (SO_2) National Ambient Air Quality Standards (NAAQS). In this action, EPA is proposing to determine that emissions from sources in Washington will not contribute significantly to nonattainment or interfere with maintenance of the 2010 SO_2 NAAQS in any other state. Therefore, EPA is proposing to approve Washington's February 7, 2018 SIP submission as meeting the interstate transport requirements for the 2010 1-hour SO_2 NAAQS.

DATES: Comments must be received on or before August 26, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2016–0590, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: John Chi, EPA Region 10 Air and Radiation Division, 1200 Sixth Avenue, Seattle, WA 98101, (206)–553–1185, *chi.john@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to EPA. Information is organized as follows:

Table of Contents

I. Background

A. Infrastructure SIPs

On June 2, 2010, EPA established a new primary 1-hour SO_2 NAAQS of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations.[1] The CAA requires each state to submit, within 3 years after promulgation of a new or revised NAAQS, SIPs meeting the applicable infrastructure elements of sections 110(a)(1) and (2). One of these applicable infrastructure elements, CAA section 110(a)(2)(D)(i), requires SIPs to contain ''good neighbor'' provisions to prohibit certain adverse air quality effects on neighboring states due to interstate transport of pollution.

Section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as prongs, that must be addressed in infrastructure SIP submissions. The first two prongs, codified at CAA section 110(a)(2)(D)(i)(I), require SIPs to contain adequate provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in any other state (prong 1) and from interfering with maintenance of the NAAQS in any other state (prong 2). The remaining prongs, codified at CAA section 110(a)(2)(D)(i)(II), require SIPs to contain adequate provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in any other state (prong 3) and from interfering with measures to protect visibility in any other state (prong 4).

[1] 75 FR 35520 (June 22, 2010).

In this action, EPA is proposing to approve the prong 1 and prong 2 portions of the Washington's February 7, 2018 SIP submission because, based on the information available at the time of this rulemaking, Washington demonstrated that it will not significantly contribute to nonattainment or interfere with maintenance of the 2010 SO_2 NAAQS in any other state. All other applicable infrastructure SIP requirements for this SIP submission will be addressed in separate rulemakings.

B. 2010 1-Hour SO_2 NAAQS Designations Background

In this action, EPA has considered information from the 2010 1-hour SO_2 NAAQS designations process, as discussed in more detail in Section III of this preamble. For this reason, a brief summary of EPA's designations process for the 2010 1-hour SO_2 NAAQS is included here.[2]

After the promulgation of a new or revised NAAQS, EPA is required to designate areas as ''nonattainment,'' ''attainment,'' or ''unclassifiable'' pursuant to section 107(d)(1) of the CAA. The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d) of the CAA. The CAA requires EPA to complete the initial designations process within two years of promulgating a new or revised standard. If the Administrator has insufficient information to make these designations by that deadline, EPA has the authority to extend the deadline for completing designations by up to one year.

EPA promulgated the 2010 1-hour SO_2 NAAQS on June 2, 2010. *See* 75 FR 35520 (June 22, 2010). EPA completed the first round of designations (''round 1'') [3] for the 2010 1-hour SO_2 NAAQS on July 25, 2013, designating 29 areas in 16

[2] While designations may provide useful information for purposes of analyzing transport, particularly for a more source-specific pollutant such as SO_2, EPA notes that designations themselves are not dispositive of whether or not upwind emissions are impacting areas in downwind states. EPA has consistently taken the position that CAA section 110(a)(2)(D)(i)(I) addresses ''nonattainment'' anywhere it may occur in other states, not only in designated nonattainment areas nor any similar formulation requiring that designations for downwind nonattainment areas must first have occurred. *See e.g.,* Clean Air Interstate Rule, 70 FR 25162, 25265 (May 12, 2005); Cross-State Air Pollution Rule, 76 FR 48208, 48211 (August 8, 2011); Final Response to Petition from New Jersey Regarding SO_2 Emissions From the Portland Generating Station, 76 FR 69052 (November 7, 2011) (finding facility in violation of the prohibitions of CAA section 110(a)(2)(D)(i)(I) with respect to the 2010 1-hour SO_2 NAAQS prior to issuance of designations for that standard).

[3] The term ''round'' in this instance refers to which ''round of designations.''

states as nonattainment for the 2010 1-hour SO_2 NAAQS. *See* 78 FR 47191 (August 5, 2013). EPA signed **Federal Register** actions of promulgation for a second round of designations [4] (''round 2'') June 30, 2016 (81 FR 45039 (July 12, 2016)) and on November 29, 2016 (81 FR 89870 (December 13, 2016)), and a third round of designations (''round 3'') on December 21, 2017 (83 FR 1098 (January 9, 2018)).[5]

On August 21, 2015 (80 FR 51052), EPA separately promulgated air quality characterization requirements for the 2010 1-hour SO_2 NAAQS in the Data Requirements Rule (DRR). The DRR requires state air agencies to characterize air quality, through air dispersion modeling or monitoring, in areas associated with sources that emitted 2,000 tons per year (tpy) or more of SO_2, or that have otherwise been listed under the DRR by EPA or state air agencies. In lieu of modeling or monitoring, state air agencies, by specified dates, could elect to impose federally enforceable emissions limitations on those sources restricting their annual SO_2 emissions to less than 2,000 tpy, or provide documentation that the sources have been shut down. EPA expected that the information generated by implementation of the DRR would help inform designations for the 2010 1-hour SO_2 NAAQS.

In ''round 3'' of designations, EPA designated Lewis and Thurston counties in Washington as unclassifiable for the 2010 1-hour SO_2 NAAQS. Washington selected the monitoring pathway pursuant to the DRR for the areas surrounding two sources in Chelan and Douglas, and Whatcom counties. These areas will be designated in a fourth round of designations (''round 4'') by December 31, 2020. The remaining counties in Washington were designated as attainment/unclassifiable in round 3.[6]

[4] EPA and state documents and public comments related to the round 2 final designations are in the docket at regulations.gov with Docket ID No. EPA–HQ–OAR–2014–0464 and at EPA's website for SO_2 designations at *https://www.epa.gov/sulfur-dioxide-designations.*

[5] Consent Decree, *Sierra Club* v. *McCarthy,* Case No. 3:13–cv–3953–SI (N.D. Cal. March 2, 2015). This consent decree requires EPA to sign for publication in the **Federal Register** documents of the Agency's promulgation of area designations for the 2010 1-hour SO_2 NAAQS by three specific deadlines: July 2, 2016 (''round 2''); December 31, 2017 (''round 3''); and December 31, 2020 (''round 4'').

[6] *See* Technical Support Document: Chapter 42 Final Round 3 Area Designations for the 2010 1-Hour SO_2 Primary National Ambient Air Quality Standard for Washington at *https://www.epa.gov/sites/production/files/2017-12/documents/42-wa-so2-rd3-final.pdf. See also* Technical Support Document: Chapter 42 Intended Round 3 Area Designations for the 2010 1-Hour SO_2 Primary National Ambient Air Quality Standard for Washington at *https://www.epa.gov/sites/production/files/2017-08/documents/43_wa_so2_rd3-final.pdf.*

II. Relevant Factors To Evaluate 2010 SO2 Interstate Transport SIPs

Although SO_2 is emitted from a similar universe of point and nonpoint sources, interstate transport of SO_2 is unlike the transport of fine particulate matter ($PM_{2.5}$) or ozone, in that SO_2 is not a regional pollutant and does not commonly contribute to widespread nonattainment over a large (and often multi-state) area. The transport of SO_2 is more analogous to the transport of lead (Pb) because its physical properties result in localized pollutant impacts very near the emissions source. However, ambient concentrations of SO_2 do not decrease as quickly with distance from the source as Pb because of the physical properties and typical release heights of SO_2. Emissions of SO_2 travel farther and have wider ranging impacts than emissions of Pb but do not travel far enough to be treated in a manner similar to ozone or $PM_{2.5}$. The approaches that EPA has adopted for ozone or $PM_{2.5}$ transport are too regionally focused, and the approach for Pb transport is too tightly circumscribed to the source to serve as a model for SO_2 transport. SO_2 transport is therefore a unique case and requires a different approach.

In this proposed rulemaking, as in prior SO_2 transport analyses, EPA focuses on a 50 km-wide zone because the physical properties of SO_2 result in relatively localized pollutant impacts near an emissions source that drop off with distance. Given the physical properties of SO_2, EPA selected the ''urban scale'', a spatial scale with dimensions from 4 to 50 kilometers (km) from point sources given the usefulness of that range in assessing trends in both area-wide air quality and the effectiveness of large-scale pollution control strategies at such point sources.[7] As such, EPA utilized an assessment up to 50 km from point sources in order to assess trends in area-wide air quality that might impact downwind states.

III. State Submission

On February 7, 2018, the Washington State Department of Ecology (Ecology) submitted a SIP to address CAA section 110(a)(2)(D)(i)(I), prongs 1 and 2, of the ''good neighbor'' provisions, for the 2010 SO_2 NAAQS.[8] The submission concluded that SO_2 emissions from sources in Washington will not contribute to nonattainment or interfere with maintenance of the 2010 SO_2 NAAQS in any other state. Washington arrived at this conclusion after (1) reviewing SO_2 emissions sources, (2) identifying downwind monitoring sites as potential receptors in neighboring states, (3) conducting an emissions over distance (Q/D) analysis, (4) evaluating available SO_2 modeling results for specific sources, and (5) reviewing the current SIP for existing federally-approved controls that limit SO_2 emissions from existing and future sources.

Emissions Sources

Washington reviewed preliminary 2014 emissions inventory data (the most recent data available at the time the submission was developed).[9] Point sources, including electrical utilities and industrial sources, account for the largest anthropogenic sources of SO_2 emissions as shown in Table 1. Washington's port and shipping activities account for the second highest source category, after point sources. Washington's conclusions about this source sector are also further discussed in a later section of this document.

TABLE 1—PRELIMINARY 2014 EMISSIONS INVENTORY OF ANTHROPOGENIC SO_2 SOURCES IN WASHINGTON [10]

Source category	Emissions (short tons)
Point sources	14,510
Commercial marine vessels	11,316
Silvicultural burning	1,177
Industrial, commercial, institutional combustion	1,095
On-road mobile	591

Receptors in Neighboring States

The submission identified SO_2 monitoring sites in Idaho and Oregon, which are the only two states that border Washington. These monitoring sites were selected as downwind receptors and further evaluated for

[7] For the definition of spatial scales for SO_2, please *see* 40 CFR part 58, appendix D, section 4.4 (''Sulfur Dioxide (SO_2) Design Criteria''). For further discussion on how EPA is applying these definitions with respect to interstate transport of SO_2, see EPA's proposal on Connecticut's SO_2 transport SIP. 82 FR 21351, 21352, 21354 (May 8, 2017).

[8] The February 7, 2018 SIP submission also addressed the 2015 ozone NAAQS. EPA approved the ozone-related portion of the SIP submission on September 20, 2018 (83 FR 47568).

[9] In Section III of this preamble, we have reviewed more recent data released as part of the 2017 National Emissions Inventory.

[10] The top five categories and emissions numbers in table 1 are re-printed from page 9 (Table 5) of the Washington State Implementation Plan Revision Interstate Transport of Sulfur Dioxide and Ozone, February 2018, publication 18–02–005, in the docket for this action.

potential impacts from Washington SO_2 sources. The submission included a table of downwind receptor monitored values for 2012 through 2016 (the most recent data available at the time the submission was developed). The data presented in Table 2 is the 99th percentile of the annual distribution of daily maximum 1-hour average concentrations at the identified receptors, in parts per billion (ppb).

TABLE 2—99TH PERCENTILE FOR THE 2010 SO_2 NAAQS AT IDENTIFIED DOWNWIND RECEPTORS (PPB) [11]

County	Site ID	2012	2013	2014	2015	2016
Ada County, ID	160010010	6	11	5	3	4
Bannock County, ID	160050004	73	40	38	45	33
Caribou County, ID	160290031	35	31	23	23	32
Multnomah County, OR	410510080	10	5	3	4	3

The submission included a spatial analysis of these receptor locations relative to the Washington State border, and relative to stationary sources in Washington that are located within 50 kilometers (km) of each receptor. After mapping the identified downwind receptors, the Washington Department of Ecology found that the Multnomah County, Oregon receptor (Site ID 41051008), which is the National Core (NCore) site located in the Portland metropolitan area, warranted further analysis because (1) it is within 50 km of the Washington border and because (2) four Washington SO_2 point sources are within a 50-km radius of the Multnomah County receptor. The submission states that the sources within the 50-km radius are small (three of the four sources emitted less than 10 tons SO_2 in 2014, and the fourth source emitted 17 tons in 2014). In addition, the Multnomah County receptor has historically monitored low 1-hour SO_2 99th percentile values, as shown in the prior table.

Washington identified two Washington SO_2 sources with annual emissions greater than 100 tons within 50 km of the Washington border. These two sources, Weyerhaeuser NR Company and Longview Fibre, are pulp and paper plants. Washington further evaluated these sources to assess whether they may have a potential impact on the Multnomah County receptor. The State reviewed monitoring data, local weather data, and regional emissions modeling and found it is reasonable to conclude that most of the SO_2 monitored at the Multnomah County receptor originates within the Portland metropolitan area of Oregon.[12]

Washington proceeded to conduct an emissions-to-distance analysis of point sources (including Weyerhaeuser NR Company and Longview Fibre) as described in the following section. Washington also reviewed SO_2 emissions from commercial marine vessels operating at several Washington ports. Washington asserted that SO_2 emissions from western-Washington ports are not likely to impact the Multnomah County receptor (nor the Idaho receptors) in part because the ports are located over 50 km from the Oregon border and also because the port emissions are spread across large areas, vessels, and operations, as opposed to emissions from stationary point sources.[13]

Emissions-to-Distance Analysis

The submission included an emissions-to-distance (Q/D) analysis used to prioritize point sources with potential impact on the closest receptor in a neighboring state. Q/D is a common screening technique used to estimate potential visibility impacts for purposes of Regional Haze planning and to analyze predicted air quality impacts in the context of major stationary source permitting in areas designated attainment and unclassifiable (Prevention of Significant Deterioration (PSD) permitting). The submission included the following table of Q/D results.

TABLE 3—EMISSIONS-TO-DISTANCE (Q/D) RESULTS [14]

Facility	Type	County	Distance to border (km)	Distance to receptor (km)	2014 SO_2 (short tons) [15]	Q/D
TransAlta Centralia General LLC.	Electricity Generation via Combustion.	Lewis	68	141	3,037	21.5
Alcoa Primary Metals Intalco Works.	Primary Aluminum Plant	Whatcom	292	373	4,794	12.9
Alcoa Primary Metals Wenatchee Works.	Primary Aluminum Plan	Chelan	164	281	2,935	10.5
Weyerhaeuser NR Company	Pulp and Paper Plant	Cowlitz	1	76	440	5.8
BP Cherry Point Refinery	Petroleum Refinery	Whatcom	296	377	917	2.4
Longview Fibre	Pulp and Paper Plant	Cowlitz	1	72	141	2.0
Boise Paper	Pulp and Paper Plant	Walla Walla	150	100	186	1.85
RockTenn Mill Tacoma	Pulp and Paper Plant	Pierce	131	197	261	1.3
Cosmo Specialty Fibers	Pulp and Paper Plant	Grays Harbor	75	185	237	1.3
Puget Sound Refining Company.	Petroleum Refinery	Skagit	255	331	347	1.0

[11] The values in table 2 are re-printed from page 8 (Tables 3 and 4) of the Washington State Implementation Plan Revision Interstate Transport of Sulfur Dioxide and Ozone, February 2018, publication 18–02–005, in the docket for this action. These are 99th percentile values, rounded to the nearest whole number.

[12] *See* page 13–14 of the Washington State Implementation Plan Revision Interstate Transport of Sulfur Dioxide and Ozone, February 2018, publication 18–02–005, in the docket for this action.

[13] Ibid.

[14] Ibid. Table was from the SIP submittal with added sources.

[15] Most recent emissions data available at the time the State developed the submission. In Section III of this preamble, we have reviewed more recent data released as part of the 2017 National Emissions Inventory.

The TransAlta Centralia Generation facility was the only source that exceeded Washington's threshold ratio of 20 for the Q/D analysis (Q/D = 21.5). As a result, it was the only source that Washington evaluated further following the Q/D analysis.

Available SO_2 Modeling Results

In the SIP submission, Washington explained their review of published modeling data for the TransAlta facility and indicated that the modeling showed limited SO_2 impact outside of the immediate area of the facility.[16] Washington also provided plume modeling data that indicated the facility's SO_2 plume distributes toward the south but would not be expected to reach the area near the Multnomah County receptor in any significant concentration.[17] Washington further explained that the facility has SO_2 emissions at the facility of less than 1,350 pounds per hour as of December 15, 2016.[18] Based on this information, Washington concluded that the TransAlta facility does not significantly contribute to SO_2 emissions at the Multnomah County Receptor.

Existing and Future SO_2 Controls

Washington reviewed current and future enforceable emission limits and controls that apply to SO_2 sources in Washington. Most of the limits and control requirements referenced have been approved into the Code of Federal Regulations (CFR) at 40 CFR part 52, subpart WW, including the SIP and Federal Implementation Plan (FIP) requirements related to Regional Haze best available retrofit technology (BART). These provisions and others listed below are designed to limit SO_2 emissions from existing and future sources in the State:

- 40 CFR 52.2470(c) reasonably available control technology requirements (Revised Code of Washington (RCW) 90.94.154 and Chapter 173–400 Washington Administrative Code (WAC))
- 40 CFR 52.2470(c) kraft pulp mill regulations (173–405 WAC)
- 40 CFR 52.2470(c) sulfite pulp mill regulations (173–410 WAC)
- 40 CFR 52.2470(c) primary aluminum smelter regulations (173–415 WAC)
- 40 CFR 52.2470(c) pre-construction permitting (WAC 173–400–111 and 720)
- 40 CFR 52.2470(c) gasoline vapor and volatile organic compound emission regulations (173–490 and 491 WAC)
- 40 CFR 52.2470(d) BART requirements for TransAlta Centralia (coal units BW21 and BW22 will permanently cease burning coal and be decommissioned by December 31, 2020 and December 31, 2025, respectively) [19]
- 40 CFR 52.2470(d) BART requirements for BP Cherry Point Refinery
- 40 CFR 52.2500 BART requirements for ALCOA Primary Metals Intalco Works
- 40 CFR 52.2501 BART requirements for Tesoro Petroleum Refinery
- 40 CFR 52.2502 BART requirements for ALCOA Primary Metals Wenatchee Works

Based on their analysis of monitoring and emissions data, the Q/D analysis, and current and future SO_2 controls, Washington concluded that SO_2 emissions from sources in Washington will not contribute to nonattainment or interfere with maintenance of the 2010 SO_2 NAAQS in any other state. Therefore, Washington requested EPA approval of the submission for purposes of CAA section 110(a)(2)(D)(i)(I) for the 2010 SO_2 NAAQS.

IV. EPA's Analysis

EPA first reviewed the Washington submission to assess how the State evaluated interstate transport of SO_2, the types of information Washington used in the analysis, and the conclusions drawn by the State. We then conducted a weight of evidence analysis to determine if we agree with the State's conclusion that SO_2 emissions from sources in Washington will not significantly contribute to nonattainment or interfere with maintenance of the 2010 SO_2 NAAQS in any other state.

A. Prong 1 Evaluation

Washington's submission focused on one downwind receptor and a relatively limited source-oriented and spatial evaluation of potential transport based on an emissions-to-distance analysis. As a result of the emissions-to-distance analysis, Washington reviewed one source, TransAlta, for potential transport. TransAlta is located approximately 70 km from the state border with Oregon.[20]

EPA has performed a supplemental analysis to more fully evaluate sources in Washington for potential transport to neighboring states. In our analysis we reviewed: (1) Emissions inventory data and emissions trends for point sources in Washington emitting greater than 100 tpy; (2) SO_2 ambient air quality data; and (3) spatial analysis of point sources located within 50 km of the Washington state border.

1. Point Source Emissions Inventory Data

First, we compiled a list of Washington point sources emitting over 100 tons per year of SO_2 according to the 2017 NEI. Then, we added 2008, 2011, and 2014 NEI data, for reference, as listed in Table 4.

TABLE 4—TRENDS IN SO_2 EMISSIONS (TONS PER YEAR) FROM POINT SOURCES IN WASHINGTON [21]

Facility	Type	County	2008	2011	2014	2017
Alcoa Primary Metals Intalco Works	Primary Aluminum Plant	Whatcom	4,523	4,538	4,794	3,987
TransAlta Centralia Generation, LLC	Electricity Generation via Combustion.	Lewis	2,318	1,136	3,037	1,689
Alcoa Primary Metals Wenatchee Works*.	Primary Aluminum Plant	Chelan	1,810	2,906	2,935	
BP Cherry Point Refinery	Petroleum Refinery	Whatcom	1,764	1,007	917	808

[16] *See* page 12 of the Washington State Implementation Plan Revision Interstate Transport of Sulfur Dioxide and Ozone, February 2018, publication 18–02–005, in the docket for this action.

[17] *https://www.epa.gov/sites/production/files/2017-01/documents/ecologytechnicalreporttransaltaso2modelingresults2017.pdf.*

[18] *http://www.swcleanair.org/docs/permits/prelim/16-3202ADP.pdf.*

[19] The submission references Southwest Clean Air Agency Regulatory Order 16–32 dated December 15, 2016. This regulatory order was not submitted for approval and is therefore not addressed in this action.

[20] As mentioned in Section I.B of this preamble, EPA designated the area containing TransAlta, Lewis and Thurston counties in Washington, as Unclassifiable in Round 3 of SO_2 designations. Washington submitted modeling for the area, however, EPA identified deficiencies with the modeling as the basis for the Unclassifiable designation. This Unclassifiable area boundary is within 50 km of the Washington state border, however, the only source emitting over 100 tpy in the area, TransAlta, is located more than 50 km from the state border. Given the distance between TransAlta and the state border, EPA did not evaluate this source further for potential transport.

[21] 2011, 2014, and 2017 National Emissions Inventory data for point sources available at *https://www.epa.gov/air-emissions-inventories.*

TABLE 4—TRENDS IN SO_2 EMISSIONS (TONS PER YEAR) FROM POINT SOURCES IN WASHINGTON [21]—Continued

Facility	Type	County	2008	2011	2014	2017
Boise Paper	Pulp and Paper Plant	Wallula	780	793	186	885
Weyerhaeuser NR Company (Nippon Dynawave).	Pulp and Paper Plant	Cowlitz	512	582	440	390
Puget Sound Refining Company	Petroleum Refinery	Skagit	450	359	347	225
Longview Fibre	Pulp and Paper Plant	Cowlitz	281	202	141	197
WestRock Tacoma Mill	Pulp and Paper Plant	Pierce	635	349	261	189
Cosmo Specialty Fibers	Pulp and Paper Plant	Grays Harbor	—	214	237	242
Sea-Tac International Airport	Airport	King	192	243	261	506
Chemtrade	Chemical Plant	Skagit	123	155	215	203
Total			13,388	12,484	13,771	9,321

* Curtailed since 2015.

The NEI data from 2008 to 2017 show decreases in SO_2 emissions from certain sources, including two petroleum refineries: BP Cherry Point and Puget Sound Refining Company. The data in Table 4 also show a mix of slight increases and decreases at some large pulp and paper plants and other sources categories.

2. SO_2 Ambient Air Quality Data

Information from SO_2 monitors near the borders between Washington and its neighboring states of Idaho and Oregon is also useful context for evaluating whether the SIP submission from Washington satisfies prong 1. Tables 5 and 6 below summarize this SO_2 monitoring information for monitors in Washington and the bordering states of Idaho and Oregon. We note that there are only two monitors within approximately 50 km of the Washington State border, and both monitors are located outside of the State (in Idaho and Oregon).

TABLE 5—TRENDS IN 3-YEAR SO_2 DESIGN VALUES (PPB) FOR AQS MONITORS IN WASHINGTON [22]

Site ID	Site name	~ Distance to border (km)	2013–2015	2014–2016	2015–2017
530570011	Anacortes-202 O Ave	263	5	5	4
530090013	Cheeka Peak	240	2 incomplete	2	1 incomplete
530730013	Ferndale-Kickerville Rd	293	invalid	invalid	invalid
530730017	Ferndale-Mountain View Rd.	294	invalid	invalid	invalid
530070012	Malaga-Malaga Highway	228	invalid	invalid	invalid
530330080	Seattle-Beacon Hill	167	6 incomplete	5 incomplete	6 incomplete

incomplete = Design value calculated based on data that does not meet completeness criteria.
invalid = Insufficient data collected to determine a valid 3-year design value.

TABLE 6—TRENDS IN 99TH PERCENTILE VALUES (PPB) FOR AQS MONITORS IN WASHINGTON [23]

Site ID	Site name	~ Distance to border (km)	2017	2018	2019
530570011	Anacortes-202 O Ave	263	3	2	3
530090013	Cheeka Peak	240	1	1	1
530730013	Ferndale-Kickerville Rd*	293	70	74	70
530730017	Ferndale-Mountain View Rd*	294	114	101	105
530070012	Malaga-Malaga Highway**	228	1	1	1
530330080	Seattle-Beacon Hill	167	6	8	6

* These two monitors are source-oriented monitors that began operating in early 2017 to characterize air quality around Alcoa Intalco Works.
** This monitor is a source-oriented monitor that began operating in early 2017 to characterize air quality around Alcoa Wenatchee Works.

TABLE 7—TREND IN 3-YEAR SO_2 DESIGN VALUES (PPB) FOR AQS MONITORS SURROUNDING WASHINGTON [24]

Site ID	County	~ Distance to Border	2013–2015	2014–2016	2015–2017
160010010	Ada County, Idaho	55	7 incomplete	4	3
160050004	Bannock County, Idaho	489	41	39	38

[22] Data obtained on 11/13/2019 at *https://www.epa.gov/air-trends/air-quality-design-values.*

[23] Data obtained on 4/16/2020 at *https://www.epa.gov/outdoor-air-quality-data/monitor-values-report.*

[24] Data obtained from EPA's Outdoor Air Quality Database (11/13/2019).

TABLE 7—TREND IN 3-YEAR SO_2 DESIGN VALUES (PPB) FOR AQS MONITORS SURROUNDING WASHINGTON [24]—Continued

Site ID	County	~ Distance to Border	2013–2015	2014–2016	2015–2017
160290031	Caribou County, Idaho	558	26	26	30
410510080	Multnomah County, Oregon	12	4	3	3

incomplete = Design value calculated based on data that does not meet completeness criteria.

Except for the Anacortes monitor, Washington SO_2 monitors have either incomplete or invalid data during the last three design value periods.[25] However, in Table 6 of this document, we've included the 99th percentile values for these monitors in Washington as additional evidence that, generally, statewide monitored values are below the level of the NAAQS.

Three new SO_2 monitors were established in Washington in early 2017. These three monitors were established to characterize two sources for purposes of the SO_2 Data Requirements Rule (DRR), namely Alcoa Primary Metals Intalco Works and Alcoa Wenatchee Works. These areas will be designated in Round 4 of SO_2 designations. The data from these monitors (Site IDs 530730013, 530730017, and 530070012) was required to be certified by the State as valid, 3-year design values by May 1, 2020. One of these monitors is recording exceedances of the NAAQS. However, we note that all three monitors (and the sources they were sited to characterize) are over 200 km away from the Washington border with neighboring states and are therefore not likely to have an adverse impact on air quality in the neighboring states of Idaho and Oregon.

Valid, complete data is available for the SO_2 monitors in Idaho and Oregon, and design values are well below the level of the 2010 SO_2 NAAQS, as shown in Table 7 of this document. As described, there are no Washington monitors located within 50 km of a neighboring state's border, however, there are two monitors in neighboring states located within approximately 50 km of the Washington border, and these monitors recorded SO_2 design values well below the level of the 2010 SO_2 NAAQS for the most recent valid design value periods. These monitored values do not, alone, indicate any particular location that would warrant further investigation with respect to SO_2 emission sources that might significantly contribute to nonattainment in the neighboring states. However, because the monitoring network is not necessarily designed to capture all locations of high SO_2 concentrations, this observation indicates an absence of evidence of impact at these locations and is insufficient to capture the impact at all locations in the neighboring states. Therefore, we have also conducted a source-oriented analysis.

3. Spatial Analysis of Point Sources

As noted, EPA has determined that it is appropriate to examine the impacts of emissions from stationary sources in distances ranging from 0 km to 50 km from the facility, based on the ''urban scale'' definition contained in appendix D to 40 CFR part 58, section 4.4. As a result, we evaluated point sources of up to 50 km from the state border for emissions trends and SO_2 concentrations in areawide air quality. In the absence of special factors, for example the presence of nearby larger sources or unusual factors, sources emitting less than 100 tons per year SO_2 can be appropriately presumed to not be significantly contributing to SO_2 concentrations above the 2010 SO_2 NAAQS. The list of sources emitting 100 tons per year or more of SO_2, based on 2017 point source data, within 50 km of the Washington state border, are shown in Table 8.

TABLE 8—SOURCES WITHIN 50 KM OF THE WASHINGTON STATE BORDER WITH SO_2 EMISSIONS GREATER THAN 100 TPY AND NEAREST NEIGHBORING STATE SOURCES

Sources	2017 SO_2 Emissions (tons)	Distance from the Border (km)	Neighboring State	Neighboring State Source (Distance Between the Sources)	2017 SO_2 Emissions of Neighboring State Source (tons)
Weyerhaeuser NR Company—Longview, Washington.	390	1	Oregon	Wauna Mill—Paper Mill—Clatskanie, Oregon (33 km).	540
Longview Fibre—Longview, Washington.	197	1	Oregon	Wauna Mill—Paper Mill—Clatskanie, Oregon (38 km).	540
Boise Paper—Wallula, Washington.	885	11	Oregon	PGE Boardman—Boardman, Oregon (82 km).	3298
Portland International Airport—Portland, Oregon.	215	2	Washington	Longview Fibre—Longview, Washington (62 km).	197
Owens-Brockway Glass Container Inc.—Portland Oregon.	118	4	Washington	Longview Fibre—Longview, Washington (66 km).	197
PGE Boardman—Boardman, Oregon.	3298	17	Washington	Boise Paper—Wallula, Washington (82).	885
Wauna Mill—Paper Mill—Clatskanie, Oregon.	540	<1	Washington	Weyerhaeuser NR Company—Longview, Washington (33).	390

[25] To be comparable to the NAAQS, the design value must be valid according to appendix T to 40 CFR part 50 which specifies minimum data completeness criteria for the 1-hour 2010 SO_2 NAAQS.

The Washington sources listed are of interest with respect to SO_2 transport because of the possibility that they are causing a violation of the 2010 SO_2 NAAQS in their locality that extends into a neighboring state. There is also the possibility of emissions from one or more of these sources in Washington and emissions from a source in a neighboring state interacting in such a way as to contribute significantly to a violation in the neighboring state. As such, we have also included sources in neighboring states within 50 km of the Washington state border as part of this analysis. The prior table shows the distance from each of the sources listed therein to the nearest source across the Washington state border emitting above 100 tons per year of SO_2. Generally, a greater distance between two sources reduces the likelihood that their emissions could interact in such a way as to contribute significantly to a violation in the neighboring state. Given the localized range of potential 1-hour SO_2 impacts, sources which are greater than 50 km from each other would not warrant further investigation with respect to Washington SO_2 emission sources that might contribute to problems with attainment of the 2010 SO_2 NAAQS in neighboring states. As shown, there are two sources in Washington which are within 50 kilometers from a source in a neighboring state; Weyerhaeuser NR Company and Longview Fibre in Longview, Washington, located 33 and 38 km respectively, from the Wauna Mill in Clatskanie, Oregon. Therefore, we have evaluated these sources further.

Longview, Washington, and Clatskanie, Oregon, comprise a cross-border, uncombined metropolitan area. Currently, EPA does not have monitoring or modeling information to indicate a violation or elevated SO_2 concentrations in this area. Given the distance between the cross-state sources (over 30 km), the declining emissions at the sources in Longview, Washington, as demonstrated in Table 4 of this document, and the lack of evidence of violations or elevated SO_2 concentrations in the area; it is unlikely that emissions from the two sources in Longview, Washington, could interact with emissions from the Wauna Mill in Clatskanie, Oregon, in such a way as to adversely impact a violation of the SO_2 NAAQS in Oregon. Based on these factors, we propose to concur with the state's conclusion that SO_2 emissions from sources in Longview, Washington, will not contribute significantly to nonattainment of the 2010 SO_2 NAAQS in the neighboring state of Oregon.

EPA has also evaluated PGE Boardman, a DRR source located within 50 km of the Washington border. PGE Boardman is located in Boardman, Oregon, and, as shown in Table 8 of this document, the nearest source in Washington is Boise Paper in Wallula, Washington. Although these sources are located 82 km apart, and it is unlikely that their emissions could interact in such a way as to contribute significantly to violations in the neighboring state, because emissions from PGE Boardman near the Washington border are over 3000 tons per year, we have further evaluated the source. The State of Oregon modeled the area surrounding the facility, and the details are summarized in Table 9.

TABLE 9—OTHER STATES' SOURCES WITH DRR MODELING LOCATED WITHIN 50 KM OF WASHINGTON

DRR source	County (state)	Approximate Distance From Source to Washington Border (km)	Other facilities included in modeling	Modeled 99th percentile daily maximum 1-hour SO_2 concentration (ppb)	Model grid extends into another state?
PGE Boardman[26].	Morrow (OR).	17	11 sources in Oregon: Columbia Ridge Landfill, PGE Boardman Carty Plant, ConAgra Foods Lamb Weston, Inc., TMF Biofuels, LLC, Hermiston Power LLC, Hermiston Generating Company, Perennial-Windchaser LLC, Oregon Potato Company, Finley Bio-Energy LLC, Gas Transmission Northwest LLC, Finley Buttes Landfill.	73 *(based on PTE emissions)*	Yes, into WA (portions of Benton, Klickitat and Yakima Counties, WA).

The State submitted the resulting model data to EPA and indicated that Oregon found no modeled exceedances of the 2010 SO_2 NAAQS within 50 km of the Boardman Plant. The State recommended EPA designate the area around the Boardman Plant as unclassifiable/attainment. EPA agreed and designated the entire State of Oregon attainment/unclassifiable for the 2010 SO_2 NAAQS (83 FR 1098, January 9, 2018).[27]

Furthermore, Oregon's SIP requires PGE Boardman to implement a phased reduction of operation and cease coal-fired operation by December 31, 2020. Based on this analysis, as well as the modeling results for the area around the Boardman plant and the federally enforceable emissions reductions planned for the facility, we propose to concur with the State's conclusion that SO_2 emissions from sources in Washington will not contribute significantly to nonattainment of the 2010 SO_2 NAAQS in the area in Oregon surrounding the PGE Boardman facility.

This spatial analysis of point sources within 50 km of the Washington border, including available modeling results, weighed along with the other factors in this document, support EPA's proposed conclusion that sources in Washington will not adversely impact air quality so as to significantly contribute to

[26] *See* Technical Support Document: Chapter 34 Final Round 3 Area Designations for the 2010 1-Hour SO_2 Primary National Ambient Air Quality Standard for Oregon at *https://www.epa.gov/sites/production/files/2017-08/documents/34_or_so2_rd3-final.pdf.*

[27] *See* 40 CFR 81.338.

nonattainment of the 2010 1-hour SO_2 NAAQS in any other state. Furthermore, EPA does not have any evidence of any violations of the 2010 1-hour SO_2 NAAQS in the neighboring states to which SO_2 emissions from Washington could significantly contribute.

Based on our review of the Washington submission and our weight of evidence analysis, we propose to conclude that sources in Washington will not significantly contribute to nonattainment of the 2010 SO_2 NAAQS in any other state, per the requirements of CAA section 110(a)(2)(D)(i)(I).

B. Prong 2 Evaluation

Prong 2 of CAA section 110(a)(2)(D)(i)(I) requires an evaluation of the potential impact of a state's emissions on areas in other states that may have trouble attaining and maintaining the NAAQS in the future. Approval of a SIP for prong 2 requires a conclusion that SO_2 emissions from the State's sources will not interfere with maintenance of the 2010 1-hour SO_2 NAAQS in another state.

Our prong 2 evaluation for Washington builds on our analysis regarding significant contribution to nonattainment (prong 1). Specifically, as explained in Section IV.A of this preamble, we have a sufficient basis to conclude that there are no NAAQS violations in other states near their shared borders with Washington (Idaho and Oregon) and accordingly, we are proposing that sources in Washington are not significantly contributing to a violation of the NAAQS in any of those states. As explained in this section, we also have a sufficient basis for concluding that SO_2 emissions from sources in Washington and other states near their shared borders are highly unlikely to increase sufficiently to alter this situation. Therefore, we are proposing to find that SO_2 levels in neighboring states (Idaho and Oregon) near the Washington border will continue to be at or below the level of the SO_2 NAAQS.

As presented in Table 4 in Section IV.A of this preamble, SO_2 emissions from larger point sources in Washington have decreased by approximately 30 percent between 2008 and 2017. This information on point source SO_2 emissions trends does not by itself demonstrate that SO_2 emissions in the near-border areas in Washington and neighboring states will not impact neighboring states. However, as a component of our weight of evidence analysis for prong 2, it provides an indication that such an increase is unlikely.

As described in the Washington Department of Ecology submission and summarized in Section II of this preamble, there are multiple provisions in the Washington SIP designed to control and limit SO_2 emissions from existing Washington sources. Future stationary sources of SO_2 emissions are subject to Washington's SIP-approved pre-construction permitting program, also known as New Source Review. New Source Review for major stationary sources in areas designated nonattainment for the 2010 SO_2 NAAQS is called nonattainment New Source Review (NNSR) and requires lowest achievable emission rates and offsets in accordance with the SIP-approved NNSR program for Washington State. New Source Review for major stationary sources in attainment and unclassifiable areas is called Prevention of Significant Deterioration (PSD) and requires that best available control technology be applied to any new major source or major modification of a major source. Washington's SIP-approved PSD program requires that new or modified major sources in attainment and unclassifiable areas do not interfere with maintenance in any other state, in accordance with federal regulations set forth in 40 CFR 51.165(b)(1). *See* 40 CFR 52.2497.

Turning to minor sources, such sources are covered by the State's SIP-approved minor new source review permitting program. In accordance with 40 CFR 51.160 through 164, subject sources may not interfere with attainment or maintenance of the NAAQS. We note that the neighboring states of Idaho and Oregon also have SIP-approved PSD and minor source permitting programs. *See* 40 CFR 52.683 and 52.1987, respectively. The permitting regulations contained within these programs are designed to ensure that ambient concentrations of SO_2 in the neighboring states of Idaho or Oregon are not exceeded as a result of new facility construction or modifications occurring in the near-border areas of these states.

In conclusion, for interstate transport prong 2, EPA has incorporated additional information about emissions trends as well as the technical information considered for interstate transport prong 1, into our evaluation of Washington's submission, which did not include an independent analysis of prong 2. We find that the large distances between cross-state SO_2 sources, combined with an overall reduction in SO_2 emissions from larger Washington sources and SIP-approved measures designed to control and limit emissions from SO_2 sources in Washington, Idaho, and Oregon, taken along with the other factors considered in this document support EPA's proposed conclusion that there will be no interference with maintenance of the 2010 SO_2 NAAQS in neighboring states from sources in Washington. Based on our weight of evidence analysis, we propose to conclude that sources in Washington will not interfere with maintenance of the 2010 SO_2 NAAQS in any other state, per the requirements of CAA section 110(a)(2)(D)(i)(I).

V. Proposed Action

As discussed in Section III of this preamble, Washington concluded that SO_2 emissions from the State will not significantly contribute to nonattainment or interfere with maintenance of the 2010 SO_2 NAAQS in any other state. EPA's analysis, discussed in Section IV of this preamble, confirms this finding. Therefore, we are proposing to approve the Washington SIP as meeting CAA section 110(a)(2)(D)(i)(I) requirements for the 2010 SO_2 NAAQS.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations.[28] Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because actions such as SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely

[28] 42 U.S.C. 7410(k); 40 CFR 52.02(a).

affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of the requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed 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 rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur dioxide, Reporting and recordkeeping requirements.

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

Dated: July 10, 2020.

Michelle Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2020–15399 Filed 7–24–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2019–0678; FRL–10011–93–Region 3]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: City of Philadelphia and District of Columbia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve negative declarations submitted to satisfy the requirements of the Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills for the City of Philadelphia, located in the Commonwealth of Pennsylvania, and the District of Columbia. The negative declarations certify that there are no existing municipal solid waste landfills in the City of Philadelphia or the District of Columbia that are subject to the requirements of 40 CFR part 60 subpart Cf.

DATES: Written comments must be received on or before August 26, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2019–0678 at *https://www.regulations.gov,* or via email to *Opila.MaryCate@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Matthew Willson, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–5795. Mr. Willson can also be reached via electronic mail at *Willson.Matthew@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 111(d) of the Clean Air Act (CAA) establishes standards of performance for certain existing sources. Air pollutants included under this section are those which have not already been established as air quality criteria pollutants via 42 U.S.C. 7408(a) or hazardous air pollutants via 42 U.S.C. 7412. Section 111(d)(1) requires states to submit to EPA for approval a plan that establishes standards of performance. The plan must provide that the state will implement and enforce the standards of performance. A Federal plan is prescribed if a state does not submit a state-specific plan or the submitted plan is disapproved. If a state has no designated facilities for a standards of performance source category, it may submit a negative declaration in lieu of a state plan for that source category according to 40 CFR 60.23a(b) and 62.06.

II. Municipal Solid Waste Landfill Regulations

A municipal solid waste (MSW) landfill is defined in 40 CFR 60.41f as, ''an entire disposal facility in a contiguous geographical space where household waste is placed in or on land.'' Other substances may be placed in the landfill which are regulated under the Resource Conservation and Recovery Act (RCRA) subtitle D, 40 CFR 257.2. MSW landfills emit gases generated by the decomposition of organic compounds or evolution of new organic compounds from the deposited waste. EPA regulations specifically delineate measures to control methane and nonmethane organic compound (NMOC) emissions, which can adversely impact public health.

The Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, as codified at 40 CFR part 60 subpart Cf (subpart Cf, or Emission Guidelines) apply to states with MSW landfills that accepted waste after November 8, 1987 and commenced construction, reconstruction, or modification before July 17, 2014. Such landfills are considered to be ''existing'' landfills. In states with facilities meeting the applicability criteria of an existing MSW landfill, the Administrator of an air quality program must submit a state plan to EPA that implements the Emission Guidelines.

The City of Philadelphia Air Management Services (AMS) and the District of Columbia Department of Energy and Environment (DOEE) have determined that there are no MSW landfills in their respective jurisdictions subject to Federal CAA landfill regulations pursuant to part 40 CFR part 60 subpart Cf. AMS and DOEE have submitted negative declarations to EPA on March 15, 2018 and November 15,

2019, respectively, pursuant to the requirements at 40 CFR 60.23a(b) and 62.06, certifying that there are no existing source MSW landfills in their respective jurisdictions subject to the requirements of 40 CFR part 60 subpart Cf. A typographical error in the letter from AMS was noted and clarified by Philadelphia AMS in an email on May 1, 2020

III. Proposed Action

EPA is proposing to approve the City of Philadelphia's and the District of Columbia's negative declarations. The negative declarations satisfy the requirements of 40 CFR 60.23a(b) and 62.06, serving in lieu of a CAA 111(d) state plan for existing MSW landfills. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a 111(d) plan submission that complies with the provisions of the CAA and applicable Federal regulations (40 CFR 62.04). Thus, in reviewing 111(d) plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

In addition, this proposed rulemaking, certifying that there are no existing municipal solid waste landfills that are subject to the requirements of 40 CFR part 60 subpart Cf in the City of Philadelphia or the District of Columbia, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 13, 2020.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2020–15649 Filed 7–24–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2000–0006; FRL–10011–89–Region 4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Macalloy Corporation Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 is proposing to Delete 134-acres of the 140-acre Macalloy Corporation Superfund Site (Site) located at 1800 Pittsburgh Avenue, North Charleston, South Carolina 29405 from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SCDHEC), have determined that all appropriate response actions at these identified parcels under CERCLA, other than groundwater monitoring and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund. This partial deletion pertains to 134-acres. The remaining 6-acres with groundwater concentrations above the 100 ug/L Maximum Contaminant Level (MCL) for total chromium will remain on the NPL and is not being considered for deletion as part of this action.

DATES: Comments must be received by August 26, 2020.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–2000–0006, by one of the following methods:

- *https://www.regulations.gov.* Follow on-line instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*
- *Email: Zeller.Craig@epa.gov* (Remedial Project Manager).

• Following Centers for Disease Control and Prevention (CDC) and Office of Policy Management (OPM) guidance and specific state guidelines impacting our regional offices, EPA's workforce has been authorized to telework to help prevent transmission of the coronavirus [COVID–19]. As a result there is a temporary shutdown of EPA's Docket Center and EPA Regional Records Centers. While in this workforce telework status, there are practical limitations on the ability of staff to collect, and for Agency personnel to respond to, ''hard copy'' mailed queries sent directly to Agency office locations. Therefore, until the workforce is able to return to office locations, EPA recommends that, to the extent feasible, any correspondence mailed to the Agency should also be sent via email.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–2000–0006. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov* or email. The *https://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available electronically in *https://www.regulations.gov.*

The EPA is temporarily suspending its Docket Center and Regional Records Centers for public visitors to reduce the risk of transmitting COVID–19. In addition, many site information repositories are closed and information in these repositories, including the deletion docket, has not been updated with hardcopy or electronic media. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID–19.

FOR FURTHER INFORMATION CONTACT: Craig Zeller, P.E., Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, Superfund & Emergency Management Division, 61 Forsyth Street SW, Atlanta, GA 30303, (404) 562–8827, email: *Zeller.Craig@epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

EPA Region 4 announces its intent to delete 134-acres of the 140-acre Macalloy Corporation Superfund Site (Site), from the National Priorities List (NPL) and request public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as those sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the Macalloy Corporation Superfund Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466 (Nov. 1, 1995). As described in 300.425(e)(3) of the NCP, a portion of a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

EPA will accept comments on the proposal to partially delete this site for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this preamble explains the criteria for deleting sites from the NPL. Section III of this preamble discusses procedures that EPA is using for this action. Section IV of this preamble discusses where to access and review information that demonstrates how the deletion criteria have been met for 134-acres of the 140-acre Macalloy Corporation Superfund Site.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of 134-acres of the Site:

(1) EPA consulted with the State before developing this Notice of Intent for Partial Deletion.

(2) EPA has provided the state 30 working days for review of this action prior to publication of it today.

(3) In accordance with the criteria discussed above, EPA has determined that no further response is appropriate.

(4) The State of South Carolina, through the South Carolina Department of Health and Environmental Control has concurred with the deletion of 134-acres of the 140-acre Macalloy Corporation Superfund Site, from the NPL.

(5) Concurrently, with the publication of this Notice of Intent for Partial Deletion in the **Federal Register**, a notice is being published in a major local newspaper, The Charleston Post & Courier. The newspaper announces the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL.

(6) The EPA placed copies of documents supporting the proposed partial deletion in the deletion docket, made these items available for public inspection, and copying at the Site information repositories identified above.

If comments are received within the 30-day comment period on this document, EPA will evaluate and respond accordingly to the comments before making a final decision to delete the 134 acre parcel. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete 134-acres of the 140- acre Macalloy Corporation Superfund Site, the Regional Administrator will publish a final Notice of Partial Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and included in the site information repositories listed above.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Partial Site Deletion

The EPA placed copies of documents supporting the proposed partial deletion in the deletion docket. The material provides explanation of EPA's rationale for the partial deletion and demonstrates how it meets the deletion criteria. This information is made available for public inspection in the docket identified above.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C.1251 *et seq;* 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: July 16, 2020.

Mary Walker,

Regional Administrator, Region 4.

[FR Doc. 2020–16066 Filed 7–24–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2005–0011; FRL–10012–62–Region 5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Scrap Processing Co., Inc. Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notification of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 5 is issuing a Notification of Intent to Delete the Scrap Processing Co., Inc. Superfund Site (Scrap Processing Site or Site) located in Medford, Wisconsin, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Wisconsin, through the Wisconsin Department of Natural Resources (WDNR), have determined that all appropriate response actions under CERCLA, other than operation and maintenance, monitoring institutional controls, and five-year reviews, have been completed at the Scrap Processing Site. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by August 26, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2005–0011, by one of the following methods:

- *https://www.regulations.gov* (our preferred method). Follow the instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*
- *Email: Deletions@usepa.onmicrosoft.com.*

Written comments submitted by mail are temporarily suspended and no hand deliveries will be accepted. We encourage the public to submit comments via email or at *https://www.regulations.gov.*

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–2005–0011. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov* or email. The *https://www.regulations.gov* website is an ''anonymous access'' system, which

means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index, Docket ID No. EPA–HQ–SFUND–2005–0011. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *https://www.regulations.gov,* Docket ID No. EPA–HQ–SFUND–2005–0011 and at *https://www.epa.gov/superfund/scrap-processing* or you may contact the person in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

The EPA is temporarily suspending its Docket Center and Regional Records Centers for public visitors to reduce the risk of transmitting COVID–19. In addition, many site information repositories are closed and information in these repositories, including the deletion docket, has not been updated with hardcopy or electronic media. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID–19.

FOR FURTHER INFORMATION CONTACT: Karen Cibulskis, NPL Deletion Coordinator, U.S. Environmental Protection Agency Region 5, at (312) 886–1843 or via email at *cibulskis.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' Section of this issue of the **Federal Register**, we are publishing a direct final Notification of Deletion of the Scrap Processing Site without prior Notification of Intent to Delete because EPA views this as a noncontroversial revision and anticipates no adverse comment(s). We have explained our reasons for this deletion in the preamble to the direct final Notification of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notification of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notification of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notification of Deletion based on this Notification of Intent to Delete. We will not institute a second comment period on this Notification of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notification of Deletion which is located in the *Rules* section of this issue of the **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1251 *et seq.*

Dated: July 22, 2020.

Kurt Thiede,

Regional Administrator, Region 5.

[FR Doc. 2020–16247 Filed 7–24–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 18–295, GN Docket No. 17–183; DA 20–730; FRS 16942]

Unlicensed Use of the 6 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration Dismissed.

SUMMARY: In this document, the Office of Engineering and Technology dismisses Encina Communications Corporation's Petition for Reconsideration for the final rule published in the **Federal Register** on May 26, 2020. A Petition for Reconsideration of this order must have been filed within thirty days, *i.e.* on or by June 25, 2020, to be considered timely. However, the Petition was filed on June 29, 2020, four days late. We therefore dismiss it.

DATES: Request for Petition of Reconsideration for the document published at 85 FR 31390, May 26, 2020, denied July 13, 2020.

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas Oros, Office of Engineering and Technology, 202–418–0636, *Nicholos.Oros@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, ET Docket No. 18–295, GN Docket No. 17–183, DA 20–730, adopted July 13, 2020, and released July 13, 2020. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW, Washington, DC 20554. The full text may also be downloaded at: *https://www.fcc.gov/document/oet-dismisses-encina-communications-petition-reconsideration.* People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Federal Communications Commission.

Ronald T. Repasi,

Acting Chief, Office of Engineering and Technology.

[FR Doc. 2020–16153 Filed 7–24–20; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 85, No. 144
Monday, July 27, 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.

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Illinois Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights and the Federal Advisory Committee Act that the Illinois Advisory Committee (Committee) will hold a meeting via teleconference on Tuesday, August 4, 2020 at 1:00 p.m. Central Time, the purpose of the meeting is to review the draft report on Fair Housing in Illinois.

DATES: The meeting will be held on Tuesday, August 4, 2020 at 1:00 p.m. Central Time.

Public Call Information: Dial: 800–367–2403, Conference ID: 1987018.

FOR FURTHER INFORMATION CONTACT: David Barreras, Designated Federal Official, at *dbarreras@usccr.gov* or 202–499–4066.

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

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Carolyn Allen at *callen@usccr.gov* in the Regional Program Unit Office/Advisory Committee Management Unit. Persons who desire additional information may contact the Regional Program Unit at 202–499–4066.

Records generated from this meeting may be inspected and reproduced at the Chicago office, as they become available, both before and after the meeting. Records of the meeting will be available via *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzlZAAQ* under the Commission on Civil Rights, Illinois Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Chicago Office at the above email or phone number.

Agenda

I. Welcome and Roll Call
II. Discussion of draft report on Fair Housing in Illinois
III. Public Comment
IV. Adjournment

Dated: July 22, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–16194 Filed 7–24–20; 8:45 am]

BILLING CODE 6335–01–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 Thursday, August 6, 2020 at 12:00 p.m. The purpose of the meeting is to review a statement of concern to update the Commission on the committee's 2018 Sectarian Aid report.

DATES: Thursday, August 6, 2020 at 12:00 p.m. (MDT).

Public Call-In Information: 1–800–367–2403; Conference ID: 9800799.

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: 9800799.

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: 9800799.

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: Thursday, August 6, 2020 at 12:00 p.m. (MDT)

I. Roll Call
II. Review Statement of Concern Regarding 2018 Sectarian Aid Report
III. Next Steps
IV. Other Business
V. Open Comment
VI. Adjournment

Dated: July 21, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–16171 Filed 7–24–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Indiana Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Indiana Advisory Committee (Committee) will hold a meeting via teleconference on Thursday August 27, 2020, at 2:00 p.m. ET for the purpose of discussing the Committee's draft Lead Poisoning and Environmental Justice report.

DATES: The meeting will be held on Thursday August 27, 2020 at 2:00 p.m. ET.

Public Call Information: Dial: 800–367–2403; Conference ID: 6012170.

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

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

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

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzlgAAA* under the Commission on Civil Rights, Indiana Advisory Committee link. Persons interested in the work of this Committee are also directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit office at the above email or phone number.

Agenda

I. Welcome and Roll Call
II. Approval of Minutes
III. Discussion: Draft Lead Poisoning and Environmental Justice Report
IV. Public Comment
V. Adjournment

Dated: July 22, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–16198 Filed 7–24–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the New York Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the New York Advisory Committee (Committee) will hold a meeting on Friday, August 21, 2020, from 1:00–2:00 p.m. EST for the purpose of discussing the committee's civil rights project.

DATES: The meeting will be held on Friday, August 21, 2020, from 1:00–2:00 p.m. EST.

Public Call Information: Dial: (800) 367–2403; Conference ID: 7109728.

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

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference operator will ask callers to identify themselves, the organizations they are affiliated with (if any), and an email address prior to placing callers into the conference call. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

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

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *https://www.facadatabase.gov/FACA/apex/FACAPublicCommittee?id=a10t0000001gzmAAAQ* under the Commission on Civil Rights, New York Advisory Committee link. Persons interested in the work of this Committee are also directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit office at the above email or phone number.

Agenda

I. Welcome and Roll Call

II. Approval of Minutes from the Last Meeting
III. Discussion: Civil Rights Topics
IV. Public Comment
V. Next Steps
VI. Adjournment

Dated: July 22, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–16208 Filed 7–24–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–131]

Twist Ties From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable July 16, 2020.

FOR FURTHER INFORMATION CONTACT: Alex Wood or Brittany Bauer; AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1959 or (202) 482–3860, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On June 26, 2020, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD) petition concerning imports of twist ties from the People's Republic of China (China) filed in proper form on behalf of Bedford Industries, Inc. (the petitioner), a domestic producer of twist ties.[1] The Petition was accompanied by a countervailing duty (CVD) petition concerning imports of twist ties from China.[2]

On June 30 and July 7, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petition in separate supplemental questionnaires and a phone call with the petitioner.[3] On July 2, 6, and 9, 2020, the petitioner filed responses to these requests for additional information.[4]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of twist ties from China are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the domestic twist tie industry in the United States. Consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioner supporting the allegation.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party, as defined in sections 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested AD investigation.[5]

Period of Investigation

Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the period of investigation for the investigation is October 1, 2019 through March 31, 2020.

Scope of the Investigation

The products covered by this investigation is twist ties from China. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on the Scope of the Investigation

On June 30 and July 7, 2020, Commerce requested further information from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.[6] On July 6 and 9, 2020, the petitioner revised the scope.[7] The description of the merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[8] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information, all such factual information should be limited to public information.[9] To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on August 5, 2020, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on August 17, 2020, which is the next business day after ten calendar days from the initial comment deadline.[10]

Commerce requests that any factual information parties consider relevant to the scope of the investigation be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's (E&C's) Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception

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[1] *See* Petitioner's Letter, ''Petition for the Imposition of Antidumping and Countervailing Duties on Twist Ties from the People's Republic of China,'' dated June 26, 2020 (the Petition).

[2] *Id.*

[3] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Twist Ties from the People's Republic of China: Supplemental Questions,'' (General Issues Supplemental); ''Petition for the Imposition of Antidumping Duties on Imports of Twist Ties from the People's Republic of China: Supplemental Questions Concerning Volume II,'' all dated June 30, 2020; and Memorandum, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Twist Ties from the People's Republic of China: Phone Call with Counsel to the Petitioner,'' dated July 7, 2020 (Phone Call Memorandum).

[4] *See* Petitioner's Letters, ''Twist Ties from the People's Republic of China,'' dated July 6, 2020 (General Issues Supplement) and ''Petition for the Imposition of Antidumping Duties on Twist Ties from China: Response to Supplemental Questions from the Department of Commerce,'' dated July 2, 2020 (China AD Supplement); and Petitioner's Letter, ''Twist Ties from the People's Republic of China,'' dated July 9, 2020 (Second General Issues Supplement).

[5] *See* the ''Determination of Industry Support for the Petition'' section, *infra.*

[6] *See* General Issues Supplemental at 3–4; *see also* Phone Call Memorandum.

[7] *See* Second General Issues Supplement at 3–4; *see also* Second General Issues Supplement at 3–4.

[8] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[9] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[10] *See* 19 CFR 351.303(b). Commerce practice dictates that where a deadline falls on a weekend or Federal holiday, the appropriate deadline is the next business day (in this instance, August 17, 2020). *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005) (*Next Business Day Rule*).

applies.[11] An electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of twist ties to be reported in response to Commerce's AD questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOPs) accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, all comments must be filed by 5:00 p.m. ET on August 5, 2020, which is 20 calendar days from the signature date of this notice.[12] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on August 17, 2020, which is the next business day after ten calendar days from the initial comment deadline. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of the AD investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[13] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[14]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.[15] Based on our analysis of the information submitted on the record, we have determined that twist ties, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[16]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2019 and compared this to the estimated total production of the domestic like product for the entire domestic industry.[17] We have relied on the data provided by the petitioner for purposes of measuring industry support.[18]

Our review of the data provided in the Petition, the General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.[19] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[20] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[21] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to,

[11] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at https://access.trade.gov/help.aspx and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

[12] *See* 19 CFR 351.303(b).

[13] *See* section 771(10) of the Act.

[14] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F. 2d 240 (Fed. Cir. 1989)).

[15] *See* Volume I of the Petition at 17–20 and Exhibit GEN–1; *see also* General Issues Supplement at 5–6; and Second General Issues Supplement at 4–5 and Supplemental Declaration from Jay Milbrandt (Supplemental Declaration).

[16] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* the Antidumping Duty Investigation Initiation Checklist: Twist Ties from the People's Republic of China (China AD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Twist Ties from the People's Republic of China (Attachment II). This checklist is dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS.

[17] *See* Second General Issues Supplement at 2–3 and Supplemental Declaration.

[18] *See* Volume I of the Petition at Exhibit GEN–1; General Issues Supplement at 6–9; and Second General Issues Supplement at 2–3 and Supplemental Declaration. For further discussion, *see* Attachment II of the China AD Initiation Checklist.

[19] *See* Attachment II of the China AD Initiation Checklist.

[20] *Id.; see also* section 732(c)(4)(D) of the Act.

[21] *See* Attachment II of the China AD Initiation Checklist.

the Petition.[22] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.[23]

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[24]

The petitioner contends that the industry's injured condition is illustrated by a significant volume and market share of subject imports; underselling and price depression and suppression; lost sales and revenues; declines in shipments and net sales; decline in financial performance; and low level of capacity utilization.[25] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.[26]

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate the AD investigation of imports of twist ties from China. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the China AD Initiation Checklist.

U.S. Price

The petitioner based export price (EP) on information from a sale or offer for sale for twist ties produced in and exported from China by a Chinese producer and made adjustments for movement expenses, where appropriate.[27]

Normal Value

Commerce considers China to be an NME country.[28] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of the initiation of this investigation. Accordingly, NV in China is appropriately based on FOPs valued in a surrogate market economy country, in accordance with section 773(c) of the Act.

The petitioner states that Mexico is an appropriate surrogate country because Mexico is a market economy country that is at a level of economic development comparable to that of China and is a significant producer of comparable merchandise.[29] The petitioner submitted publicly available information from Mexico to value all FOPs.[30] Based on the information provided by the petitioner, we determine that it is appropriate to use Mexico as a surrogate country for China for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selections and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

The petitioner used its own product-specific consumption rates as a surrogate to value Chinese manufacturers' FOPs.[31] Additionally, the petitioner calculated factory overhead; selling, general and administrative expenses; and profit based on the experience of a Mexican producer of comparable merchandise (*i.e.,* rebars, cold finished bars, wire rods, and other products).[32]

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of twist ties from China are being, or are likely to be, sold in the United States at LTFV. Based on a comparison of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margin for twist ties from China is 72.96 percent.[33]

Initiation of LTFV Investigation

Based upon our examination of the Petition on twist ties from China and supplemental responses, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of twist ties from China are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Respondent Selection

The petitioner named six companies in China as producers/exporters of twist ties.[34] In accordance with our standard practice for respondent selection in an AD investigation involving an NME country, Commerce selects respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large, and it cannot individually examine each company based upon its resources. Therefore, considering the number of producers and exporters identified in the Petitions, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. Commerce will issue Q&V questionnaires to all six identified producers and exporters for which there is address information on the record.

In addition, Commerce will post the Q&V questionnaire along with filing instructions on E&C's website at *https://enforcement.trade.gov/questionnaires/questionnaires-ad.html.* Producers/exporters of twist ties from China that

[22] *Id.*

[23] *Id.*

[24] *See* Volume I of the Petition at 22 and Exhibit GEN–1; *see also* General Issues Supplement at 10.

[25] *See* Volume I of the Petition at 8, 15–16, 21–29 and Exhibits GEN–1, GEN–8, and GEN–11; *see also* General Issues Supplement at 2 and 9–10; and Second General Issues Supplement at 3.

[26] *See* the China AD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Twist Ties from the People's Republic of China (Attachment III).

[27] *See* the China AD Initiation Checklist.

[28] *See, e.g., Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination,* 82 FR 50858, 50861 (November 2, 2017), and accompanying Preliminary Decision Memorandum at ''China's Status as a Non-Market Economy,'' unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 83 FR 9282 (March 5, 2018).

[29] *See* Volume II of the Petitions at 2 and Exhibit AD–CH–3.

[30] *Id.* at Exhibits AD–CH–3, AD–CH–4; and China AD Supplement at Exhibits AD–CN–S2, AD–CN–S3, and AD–CH–S4.

[31] *See* Volume II of the Petition at 4 and Exhibits AD–CH–2, AD–CH–3, AD–CH–4; and China AD Supplement at Exhibits AD–CN–S2, AD–CN–S3, and AD–CH–S4.

[32] *See* Volume II of the Petition at 4 and Exhibit AD–CH–3; and China AD Supplement at Exhibit AD–CN–S3.

[33] *See* China AD Supplement at Exhibit AD–CH–5.

[34] *See* Volume I of the Petition at 14–15 and Exhibit Gen-6.

do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from E&C's website. In accordance with our standard practice for respondent selection in AD cases involving NME countries, in the event Commerce decides to limit the number of respondents individually investigated, Commerce intends to base respondent selection on the responses to the Q&V questionnaire that it receives.

Responses to the Q&V questionnaire must be submitted by the relevant Chinese producers/exporters no later than 5:00 p.m. ET on August 3, 2020. All Q&V responses must be filed electronically via ACCESS.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on E&C's website at *http://enforcement.trade.gov/apo.* Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

Separate Rates

In order to obtain separate-rate status in an NME investigation, producers/exporters must submit a separate-rate application.[35] The specific requirements for submitting a separate-rate application in a China investigation are outlined in detail in the application itself, which is available on E&C's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html.* The separate-rate application will be due 30 days after publication of this initiation notice.[36] Producers/exporters who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that {Commerce} will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.[37]

Distribution of Copies of the AD Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the Government of China via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of twist ties from China are materially injuring, or threatening material injury to, a U.S. industry.[38] A negative ITC determination will result in the investigation being terminated.[39] Otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted[40] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[41] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Please review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to

[35] *See* Policy Bulletin 05.1: ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving NME Countries,'' (April 5, 2005), available at *http://enforcement.trade.gov/policy/bull05-1.pdf* (Policy Bulletin 05.1).

[36] Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that ''the Secretary may request any person to submit factual information at any time during a proceeding,'' this deadline is now 30 days.

[37] *See* Policy Bulletin 05.1 at 6 (emphasis added).

[38] *See* section 733(a) of the Act.

[39] *Id.*

[40] *See* 19 CFR 351.301(b).

[41] *See* 19 CFR 351.301(b)(2).

submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[42] Parties must use the certification formats provided in 19 CFR 351.303(g).[43] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.[44]

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: July 16, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Investigation

The merchandise covered by this investigation consists of twist ties, which are thin, bendable ties for closing containers, such as bags, bundle items, or identifying objects. A twist tie in most circumstances is comprised of one or more metal wires encased in a covering material, which allows the tie to retain its shape and bind against itself. However, it is possible to make a twist tie with plastic and no metal wires. The metal wire that is generally used in a twist tie is stainless or galvanized steel and typically measures between the gauges of 19 (.0410'' diameter) and 31 (.0132'') (American Standard Wire Gauge). A twist tie usually has a width between .075'' and 1'' in the cross-machine direction (width of the tie—measurement perpendicular with the wire); a thickness between .015'' and .045'' over the wire; and a thickness between .002'' and .020'' in areas without wire. The scope includes an all-plastic twist tie containing a plastic core as well as a plastic covering (the wing) over the core, just like paper and/or plastic in a metal tie. An all-plastic twist tie (without metal wire) would be of the same measurements as a twist tie containing one or more metal wires. Twist ties are commonly available individually in pre-cut lengths (''singles''), wound in large spools to be cut later by machine or hand, or in perforated sheets of spooled or single twist ties that are later slit by machine or by hand (''gangs'').

The covering material of a twist tie may be paper (metallic or plain), or plastic, and can be dyed in a variety of colors with or without printing. A twist tie may have the same covering material on both sides or one side of paper and one side of plastic. When comprised of two sides of paper, the paper material is bound together with an adhesive or plastic. A twist tie may also have a tag or label attached to it or a pre-applied adhesive attached to it.

Twist ties are imported into the United States under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8309.90.0000 and 5609.00.3000. Subject merchandise may also enter under HTSUS subheadings 3920.51.5000, 3923.90.0080, 3926.90.9990, 4811.59.6000, 4821.10.2000, 4821.10.4000, 4821.90.2000, 4821.90.4000, and 4823.90.8600. These HTSUS subheadings are provided for reference only. The written description of the scope of the investigation is dispositive.

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[42] *See* section 782(b) of the Act.

[43] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[44] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–887]

Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2018–2019 and Partial Rescission of Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty order on carbon and alloy steel cut-to-length plate from the Republic of Korea. The period of review (POR) is May 1, 2018, through April 30, 2019. The review covers one producer/exporter of the subject merchandise, POSCO/POSCO International Corporation (successor in interest to POSCO Daewoo Corporation)/POSCO Processing & Service Co., Ltd. and its affiliated companies (collectively, the POSCO single entity). We preliminarily determine that sales of subject merchandise by the POSCO single entity were not made at prices below normal value (NV). Interested parties are invited to comment on these preliminary results.

DATES: Applicable July 27, 2020.

FOR FURTHER INFORMATION CONTACT: Michael Bowen or William Horn, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0768 or (202) 482–4868, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2019, based on a timely request for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on certain carbon and alloy steel cut-to-length plate from the Republic of Korea [1] for twelve companies.[2] On September 4, 2019, we selected POSCO/POSCO Daewoo Corporation [3]/POSCO Processing & Service Co., Ltd. for individual examination as the sole mandatory respondent in this administrative review.[4] Additionally, on October 9, 2019 the petitioners withdrew their request for review of all companies except for this entity.[5]

In December 2019, we extended the deadline for these preliminary results until May 29, 2020.[6] On April 24, 2020,

[1] *See Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Determinations for France, the Federal Republic of Germany, the Republic of Korea and Taiwan, and Antidumping Duty Orders,* 82 FR 24096 (May 25, 2017) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administration Reviews, 84 FR 33739 (July 15, 2019) (Initiation Notice).*

[3] Based on the record evidence in this review, we are preliminarily finding POSCO International Corporation to be the successor in interest to POSCO Daewoo Corporation. For a full discussion of the proprietary details of Commerce's analysis regarding the successor-in-interest finding, *see* Memorandum, ''Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: POSCO Affiliation and Collapsing Memorandum,'' dated concurrently with this memorandum (Affiliation and Collapsing Memorandum).

[4] *See* Memorandum, ''2018–2019 Administrative Review of Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Respondent Selection,'' dated September 4, 2019.

[5] *See* Petitioners' Letter, ''Carbon and Alloy Steel Cut-To-Length Plate from the Republic of Korea—Petitioners' Partial Withdrawal of Administrative Review Request,'' dated October 9, 2019.

[6] *See* Memorandum, ''Carbon and Alloy Steel Cut-To-Length Plate from the Republic of Korea:

Continued

Commerce tolled all deadlines in administrative reviews by 50 days, thereby extending the deadline for these preliminary results until July 20, 2020.[7] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[8]

Scope of the Order

The merchandise subject to the *Order* is Carbon and Alloy Steel Cut-to-Length Plate. For a complete description of the subject merchandise, please see the Preliminary Decision Memorandum. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the *Order* may also enter under the following HTSUS item numbers: 7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500, 7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7206.11.1000, 7226.11.9060, 7229.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180. The HTSUS subheadings are provided for convenience and customs purposes only; the written product description of the scope of the *Order* is dispositive.

Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested a review withdraws its request within 90 days of the date of publication of the notice of initiation. We initiated a review of 12 companies for this segment of the proceeding and published notice of the initiation on July 15, 2019.[9] All requests for review of the following producers/exporters were timely withdrawn: Buma Ce Co., Ltd., Dong Yang Steel Pipe Co., Ltd., Dongkuk Steel Mill Co., Ltd., Expeditors Korea Ltd., Haem Co., Ltd., Hyundai Glovis Co., Ltd., Hyundai Steel Company, J.I. Sea & Air Express Co., Ltd., Maxpeed Co., Ltd., Ramses Logistics Co., Ltd., and Sumitomo Corp. Korea Ltd.[10] Accordingly, Commerce is rescinding the administrative review with respect to these eleven companies, in accordance with 19 CFR 351.213(d)(1). The review will continue with respect to the POSCO single entity.[11]

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Export price and constructed export price are calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum, dated concurrently with these results and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

Preliminary Results of the Review

We preliminarily find that a weighted-average dumping margin of zero percent exists for the POSCO single entity for the period May 1, 2018 through April 30, 2019.[12] Therefore, Commerce preliminarily determines that the POSCO single entity did not make sales of subject merchandise at prices below NV during the POR.

Disclosure and Public Comment

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice.[13] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the date for filing case briefs.[14] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Case and rebuttal briefs should be filed using ACCESS.[15]

All submissions to Commerce must be filed electronically using ACCESS and must also be served on interested parties.[16] An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time on the date that the document is due. Note that Commerce has temporarily modified certain of its

Extension of the Deadline for Preliminary Results of the Antidumping Duty Administrative Review; 2018–2019,'' dated December 31, 2019.

[7] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID–19,'' dated April 24, 2020.

[8] *See* Memorandum, ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review; 2018–2019: Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea,'' dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).

[9] *See Initiation Notice.*

[10] *See* Petitioners' Letter, ''Carbon and Alloy Steel Cut-To-Length Plate from the Republic of Korea—Petitioners' Partial Withdrawal of Administrative Review Request,'' dated October 9, 2019.

[11] Commerce preliminarily determines that POSCO, POSCO International Corporation (successor in interest to POSCO Daewoo Corporation), POSCO Processing & Service Co., Ltd., and certain distributors and service centers (Taechang Steel Co., Ltd., Winsteel Co., Ltd., Moonbae Steel Co., Ltd., Dae Dong Steel Co., Ltd., Shinjin Esco Co., Ltd., Shilla Steel Co., Ltd., and POSCO Plate Fabricating Division) are affiliated pursuant to section 771(33)(E) of the Act, and that these companies should be treated as a single entity (collectively, the POSCO single entity) pursuant to 19 CFR 351.401(f). Our collapsing determination with respect to Moonbae Steel Co., Ltd. and Dae Dong Steel Co., Ltd. relates only to the portion of the POR during which these companies were affiliated with POSCO, *i.e.,* from May 1, 2018 to July 2, 2018, and from May 1, 2018 to June 20, 2018, respectively. *See* Affiliation and Collapsing Memorandum.

[12] *See* Preliminary Decision Memorandum

[13] *See* 19 CFR 351.309(c)(1)(ii).

[14] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020) (''To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications are in effect).'').

[15] *See* 19 CFR 351.303.

[16] *See* 19 CFR 351.303(f).

requirements for serving documents containing business proprietary information, until further notice.[17]

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS system within 30 days of publication of this notice. [18] Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date and time of the hearing two days before the scheduled date.

Unless the deadline is extended pursuant to section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.213(h)(2), Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice.[19]

Assessment Rates

Upon publication of the final results of this administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[20]

Commerce will calculate importer-specific antidumping duty assessment rates when a respondent's weighted average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent). Pursuant to 19 CFR 351.212(b)(1), where the respondent reported the entered value of its U.S. sales, we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of such sales. Where the respondent did not report entered value, we will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total quantity of those sales, in accordance with 19 CFR 351.212(b)(1).[21] We will also calculate (estimated) *ad valorem* importer-specific assessment rates with which to assess whether the per-unit assessment rate is *de minimis* . We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when either the respondent's weighted-average dumping margin is not zero or *de minimis* or the importer-specific *ad valorem* assessment rate calculated in the final results of this review is not zero or *de minimis.* Where either the respondent's *ad valorem* weighted-average dumping margin is zero or *de minimis,* or an importer-specific *ad valorem* assessment rate is zero or *de minimis,*[22] we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce's ''reseller policy'' will apply to entries of subject merchandise during the POR produced by the POSCO single entity for which it did not know that the merchandise it sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[23]

We intend to issue instructions to CBP 15 days after the date of publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the POSCO single entity will be the rate established in the final results of this review, except if the rate is *de minimis* within the meaning of 19 CFR 351.106(c)(1) (*i.e.,* less than 0.5 percent), in which case the cash deposit rate will be zero; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, then the cash deposit rate will be the rate established for the most recently-completed segment for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 7.39 percent, the all-others rate established in the less-than-fair-value investigation.[24] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: July 20, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2020–16200 Filed 7–24–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–853]

Standard Steel Welded Wire Mesh from Mexico: Initiation of Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable July 20, 2020.

[17] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[18] *See* 19 CFR 351.310(c).

[19] *See* section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

[20] *See* 19 CFR 351.212(b)(1).

[21] In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[22] *See* 19 CFR 351.106(c)(2).

[23] For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[24] *See Order.*

FOR FURTHER INFORMATION CONTACT: Alice Maldonado or Melissa Kinter; AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4682 or (202) 482–1413, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On June 30, 2020, the Department of Commerce (Commerce) received an antidumping duty (AD) petition concerning imports of standard steel welded wire mesh (wire mesh) from Mexico filed in proper form on behalf of the petitioners,[1] domestic producers of wire mesh.[2] The Petition was accompanied by a countervailing duty (CVD) petition concerning imports of wire mesh from Mexico.[3]

On July 2, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petition in separate supplemental questionnaires.[4] The petitioners filed responses to the supplemental questionnaires on July 7, 2020.[5]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of wire mesh from Mexico are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the wire mesh industry in the United States. Consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioners supporting their allegations.

Commerce finds that the petitioners filed the Petition on behalf of the domestic industry because the petitioners are interested parties, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioners demonstrated sufficient industry support for the initiation of the requested AD investigation.[6]

Period of Investigation

Because the Petition was filed on June 30, 2020, the period of investigation (POI) for this AD investigation is April 1, 2019 through March 31, 2020, pursuant to 19 CFR 351.204(b)(1).[7]

Scope of the Investigation

The products covered by this investigation are wire mesh from Mexico. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on the Scope of the Investigation

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[8] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[9] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on August 10, 2020, which is the next business day after 20 calendar days from the signature date of this notice.[10] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on August 20, 2020, which is ten calendar days from the initial comment deadline.

Commerce requests that any factual information parties consider relevant to the scope of the investigation be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[11] An electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of wire mesh to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe wire mesh, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally,

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[1] Insteel Industries, Inc.; Mid South Wire Company; National Wire LLC; Oklahoma Steel & Wire Co.; and Wire Mesh Corp. (collectively, the petitioners).

[2] *See* Petitioners' Letter, ''Standard Steel Welded Wire Mesh from Mexico—Petition for the Imposition of Antidumping and Countervailing Duties,'' dated June 30, 2020 (the Petition).

[3] *Id.*

[4] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping Duties and Countervailing Duties on Imports of Standard Steel Welded Wire Mesh from Mexico: Supplemental Questions''; and ''Petition for the Imposition of Antidumping Duties on Imports of Standard Steel Welded Wire Mesh from Mexico: Supplemental Questions,'' both dated July 2, 2020.

[5] *See* Petitioners' Letters, ''Standard Steel Welded Wire Mesh from Mexico—Petitioners' Amendment to Volume I Concerning General Issues,'' (General Issues Supplement); and ''Standard Steel Welded Wire Mesh from Mexico—Petitioners' Amendment to Volume II Related to Antidumping Duties from Mexico,'' (Mexico AD Supplement), both dated July 7, 2020.

[6] *See infra,* section on ''Determination of Industry Support for the Petition.''

[7] *See* 19 CFR 351.204(b)(1).

[8] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[9] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[10] *See* 19 CFR 351.303(b). Commerce practice dictates that where a deadline falls on a weekend or Federal holiday, the appropriate deadline is the next business day (in this instance, August 10, 2020). *See also Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005) (*Next Business Day Rule*).

[11] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on August 10, 2020, which is the next business day after 20 calendar days from the signature date of this notice.[12] Any rebuttal comments must be filed by 5:00 p.m. ET on August 20, 2020. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[13] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[14]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioners do not offer a definition of the domestic like product distinct from the scope of the investigation.[15] Based on our analysis of the information submitted on the record, we have determined that wire mesh, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[16]

In determining whether the petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the appendix to this notice. To establish industry support, the petitioners provided their 2019 production of the domestic like product, as well as the 2019 production of Davis Wire Corporation and Liberty Steel USA, supporters of the Petition.[17] The petitioners compared the production of the supporters of the Petition to the estimated total production of the domestic like product for the entire domestic industry.[18] We relied on data provided by the petitioners for purposes of measuring industry support.[19]

From July 13 through 17, 2020, we received comments on industry support from Deacero S.A.P.I. de C.V, a Mexican producer, and its affiliated U.S. importer, Deacero USA, Inc. (collectively, Deacero).[20] The petitioners responded to these industry support comments on July 14 and 16, 2020, respectively.[21]

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioners have established industry support for the Petition.[22] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[23] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[24] Finally, the domestic producers (or workers) have met the statutory criterion for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[25] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within

[12] *See* 19 CFR 351.303(b); and *Next Business Day Rule.*

[13] *See* section 771(10) of the Act.

[14] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[15] *See* Volume I of the Petition at 16–17; *see also* General Issues Supplement at 9–10.

[16] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Antidumping Duty Investigation Initiation Checklist: Standard Steel Welded Wire Mesh from Mexico (Mexico AD Initiation Checklist) at Attachment II, ''Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Standard Steel Welded Wire Mesh from Mexico'' (Attachment II), dated concurrently with this notice and on file electronically via ACCESS.

[17] *See* Volume I of the Petition at 3–4 and Exhibit GEN–3.

[18] *See* Volume I of the Petition at 3–4 and Exhibits GEN–1 and GEN–3; *see also* General Issues Supplement at 11 and Exhibit GEN–SUPP–3.

[19] *Id.* For further discussion, *see* Mexico AD Initiation Checklist at Attachment II.

[20] *See* Deacero's Letter, ''Standard Steel Welded Wire Mesh from Mexico—Request to Clarify Scope and to Poll Domestic Industry,'' dated July 13, 2020; Deacero's Letter, ''Standard Steel Welded Wire Mesh from Mexico—Continued Request to Clarify Scope and to Poll Domestic Industry,'' dated July 15, 2020; and Deacero's Letter, ''Standard Steel Welded Wire Mesh from Mexico—Third Request to Clarify Scope and to Poll Domestic Industry,'' dated July 17, 2020.

[21] *See* Petitioners' Letter, ''Standard Steel Welded Wire Mesh from Mexico—Petitioners' Response to Deacero's Request to Clarify Scope and to Poll Domestic Industry,'' dated July 14, 2020; *see also* Petitioners' Letter, ''Standard Steel Welded Wire Mesh from Mexico—Petitioners' Response to Deacero's Second Request to Clarify Scope and to Poll Domestic Industry,'' dated July 16, 2020.

[22] *Id.*

[23] *See* Mexico AD Initiation Checklist at Attachment II.; *see also* section 732(c)(4)(D) of the Act.

[24] *See* Mexico AD Initiation Checklist at Attachment II.

[25] *Id.*

the meaning of section 732(b)(1) of the Act.[26]

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[27]

The petitioners contend that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression and/or suppression; lost sales and revenues; decreasing capacity utilization rates and shipments; declines in employment variables; and declining financial performance and operating income.[28] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[29]

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate an AD investigation of imports of wire mesh from Mexico. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the Mexico AD Initiation Checklist.

U.S. Price

The petitioners based EP on pricing information for a sale of wire mesh produced in and exported from Mexico. The petitioners made certain adjustments to U.S. price to calculate a net ex-factory U.S. price.[30]

Normal Value [31]

The petitioners based NV on a home market price quote obtained through market research for wire mesh produced in and sold, or offered for sale, in Mexico within the applicable time period.[32] The petitioners provided information indicating that the price quote was below the COP and, therefore, the petitioners also calculated NV based on constructed value (CV).

For further discussion of CV, *see* the section ''Normal Value Based on Constructed Value.''

Normal Value Based on Constructed Value

As noted above, the petitioners provided information indicating that the price charged for wire mesh produced in and sold, or offered for sale, in Mexico was below the COP. Accordingly, the petitioners also based NV on CV.[33] Pursuant to section 773(e) of the Act, the petitioners calculated CV as the sum of the cost of manufacturing; selling, general, and administrative expenses; financial expenses; and profit.[34]

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of wire mesh from Mexico are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for wire mesh for Mexico range from 64.07 to 152.68 percent.[35]

Initiation of LTFV Investigation

Based upon the examination of the Petition and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of wire mesh from Mexico are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Respondent Selection

In the Petition, the petitioners named nine companies in Mexico [36] as producers/exporters of wire mesh.

Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of exporters or producers in any individual case is large such that Commerce cannot individually examine each company based upon its resources, where appropriate, Commerce intends to select mandatory respondents in that case based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the ''Scope of the Investigation,'' in the appendix.

On July 14, 2020, Commerce released CBP data on imports of wire mesh from Mexico under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of this investigation.[37] Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *http://enforcement.trade.gov/apo*.

Distribution of Copies of the AD Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the AD Petition has been provided to the Government of Mexico via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petition to each exporter named in the AD Petition, as provided under 19 CFR 351.203(c)(2).

[26] *Id.*

[27] *See* Volume I of the Petition at 18–19 and Exhibit GEN–9.

[28] *See* Volume I of the Petition at 9–10, 15, 18–27 and Exhibits GEN–1, GEN–5, GEN–6 and GEN–9 through GEN–12; *see also* General Issues Supplement at 11 and Exhibit GEN–SUPP–5.

[29] *See* Mexico AD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Standard Steel Welded Wire Mesh from Mexico.

[30] *See* Mexico AD Initiation Checklist.

[31] In accordance with section 773(b)(2) of the Act, for this investigation, Commerce will request information necessary to calculate the constructed value and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

[32] *See* Mexico AD Initiation Checklist.

[33] *See* Mexico AD Initiation Checklist for details of calculations.

[34] *See* Mexico AD Initiation Checklist.

[35] *See* Mexico AD Initiation Checklist for details of calculations.

[36] *See* Volume I of the Petition at Exhibit GEN–7.

[37] *See* Memorandum, ''Antidumping Duty Investigation of Standard Steel Welded Wire Mesh from Mexico: Release of Customs Data from U.S. Customs and Border Protection,'' dated July 14, 2020.

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the AD Petition was filed, whether there is a reasonable indication that imports of wire mesh from Mexico are materially injuring, or threatening material injury to, a U.S. industry.[38] A negative ITC determination will result in the investigation being terminated.[39] Otherwise, the AD investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [40] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[41] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301 or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[42] Parties must use the certification formats provided in 19 CFR 351.303(g).[43] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Note that Commerce has temporarily modified certain portions of its requirements for serving documents containing business proprietary information, until further notice.[44]

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: July 20, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The scope of this investigation covers uncoated standard welded steel reinforcement wire mesh (wire mesh) produced from smooth or deformed wire. Subject wire mesh is produced in square and rectangular grids of uniformly spaced steel wires that are welded at all intersections. Sizes are specified by combining the spacing of the wires in inches or millimeters and the wire cross-sectional area in hundredths of square inch or millimeters squared. Subject wire mesh may be packaged and sold in rolls or in sheets.

Subject wire mesh is currently produced to ASTM specification A1064/A1064M, which covers carbon-steel wire and welded wire reinforcement, smooth and deformed, for concrete in the following seven styles:

1. 6x6 W1.4/W1.4 or D1.4/D1.4
2. 6x6 W2.1/W2.1 or D2.1/D2.1
3. 6x6 W2.9/W2.9 or D2.9/D2.9
4. 6x6 W4/W4 or D4/D4

[38] *See* section 733(a) of the Act.

[39] *Id.*

[40] *See* 19 CFR 351.301(b).

[41] *See* 19 CFR 351.301(b)(2).

[42] *See* section 782(b) of the Act.

[43] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[44] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

5. 6x12 W4/W4 or D4/D4
6. 4x4 W2.9/W2.9 or D2.9/D2.9
7. 4x4 W4/W4 or D4/D4

The first number in the style denotes the nominal spacing between the longitudinal wires and the second number denotes the nominal spacing between the transverse wires. In the first style listed above, for example, ''6x6'' denotes a grid size of six inches by six inches. ''W'' denotes the use of smooth wire, and ''D'' denotes the use of deformed wire in making the mesh. The number following the W or D denotes the nominal cross-sectional area of the transverse and longitudinal wires in hundredths of a square inch (*i.e.,* W1.4 or D1.4 is .014 square inches).

Smooth wire is wire that has a uniform cross-sectional diameter throughout the length of the wire.

Deformed wire is wire with indentations or raised transverse ribs, which results in wire that does not have a uniform cross-sectional diameter throughout the length of the wire.

Rolls of subject wire mesh are produced in the following styles and nominal width and length combinations:

Style: 6x6 W1.4/W1.4 or D1.4/D1.4 (*i.e.,* 10 gauge)
Roll Sizes: 5′ x 50′
5′ x 150′
6′ x 150′
5′ x 200′
7′ x 200′
7.5′ x 200′
Style: 6x6 W2.1/W2.1 or D2.1/D2.1 (*i.e.,* 8 gauge)
Roll Sizes: 5′ x 150′
Style: 6x6 W2.9/W2.9 or D2.9/D2.9 (*i.e.,* 6 gauge)
Roll Sizes: 5′ x 150′
7′ x 200′

All rolled wire mesh is included in scope regardless of length.

Sheets of subject wire mesh are produced in the following styles and nominal width and length combinations:

Style: 6x6 W1.4/W1.4 or D1.4/D1.4 (*i.e.,* 10 gauge)
Sheet Size: 3′6″ x 7′
4′ x 7′
4′ x 7′6″
5′ x 10′
7′ x 20′
7′6″ x 20′
8′ x 12′6″
8′ x 15′
8′ x 20′
Style: 6x6 W2.1/W2.1 or D2.1/D2.1 (*i.e.,* 8 gauge)
Sheet Size: 5′ x 10′
7′ x 20′
7′6″ x 20′
8′ x 12′6″
8′ x 15′
8′ x 20′
Style: 6x6 W2.9/W2.9 or D2.9/D2.9 (*i.e.,* 6 gauge)
Sheet Size: 3′6″ x 20′
5′ x 10′
7′ x 20′
7′6″ x 20′
8′ x 12′6″
8′ x 15′
8′ x 20′
Style: 6x12 W4/W4 or D4/D4 (*i.e.,* 4 gauge)
Sheet Size: 8′ x 20′
Style: 4x4 W2.9/W2.9 or D2.9/D2.9 (*i.e.,* 6 gauge)
Sheet Size: 5′ x 10′
7′ x 20′
7′6″ x 20′
8′ x 12′6″
8′ x 12′8″
8′ x 15′
8′ x 20′
Style: 4x4 W4/W4 or D4/D4 (*i.e.,* 4 gauge)
Sheet Size: 5′ x 10′
8′ x 12′6″
8′ x 12′8″
8′ x 15′
8′ x 20′

Any product imported, sold, or invoiced in one of these size combinations is within the scope.

ASTM specification A1064/A1064M provides for permissible variations in wire gauges, the spacing between transverse and longitudinal wires, and the length and width combinations. To the extent a roll or sheet of welded wire mesh falls within these permissible variations, it is within this scope.

ASTM specification A1064/A1064M also defines permissible oversteeling, which is the use of a heavier gauge wire with a larger cross-sectional area than nominally specified. It also permits a wire diameter tolerance of ± 0.003 inches for products up to W5/D5 and ± 0.004 for sizes over W5/D5. A producer may oversteel by increasing smooth or deformed wire diameter up to two whole number size increments on Table 1 of A1064. Subject wire mesh has the following actual wire diameter ranges, which account for both oversteeling and diameter tolerance:

W/D No.	Maximum oversteeling No.	Diameter range (inch)
1.4 (*i.e.,* 10 gauge)	3.4	0.093 to 0.211
2.1 (*i.e.,* 8 gauge)	4.1	0.161 to 0.231
2.9 (*i.e.,* 6 gauge)	4.9	0.189 to 0.253
4.0 (*i.e.,* 4 gauge)	6.0	0.223 to 0.280

To the extent a roll or sheet of welded wire mesh falls within the permissible variations provided above, it is within this scope.

In addition to the tolerances permitted in ASTM specification A1064/A1064M, wire mesh within this scope includes combinations where:

1. A width and/or length combination varies by ± one grid size in any direction, *i.e.,* ± 6 inches in length or width where the wire mesh's grid size is ''6x6''; and/or

2. The center-to-center spacing between individual wires may vary by up to one quarter of an inch from the nominal grid size specified.

Length is measured from the ends of any wire and width is measured between the center-line of end longitudinal wires.

Additionally, although the subject wire mesh typically meets ASTM A1064/A1064M, the failure to include certifications, test reports or other documentation establishing that the product meets this specification does not remove the product from the scope. Wire mesh made to comparable foreign specifications (*e.g.,* DIN, JIS, etc.) or proprietary specifications is included in the scope.

Excluded from the scope is wire mesh that is galvanized (*i.e.,* coated with zinc) or coated with an epoxy coating. In order to be excluded as galvanized, the excluded welded wire mesh must have a zinc coating thickness meeting the requirements of ASTM specification A641/A641M. Epoxy coating is a mix of epoxy resin and hardener that can be applied to the surface of steel wire.

Merchandise subject to this investigation are classified under Harmonized Tariff Schedule of the United States (HTSUS) categories 7314.20.0000 and 7314.39.0000. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

[FR Doc. 2020–16185 Filed 7–24–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Amendment to the Cybersecurity Business Development Mission to Peru, Chile, and Uruguay, With an Optional Stop in Argentina

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Department of Commerce, International Trade Administration, is amending the Notice published March 2, 2020, regarding the Cybersecurity Business Development Mission to Peru, Chile, and Uruguay, with an optional stop in Argentina, scheduled from October 5–9, 2020, to amend the dates and deadline for submitting applications for the event.

SUPPLEMENTARY INFORMATION:
Amendments to Revise the Trade Mission Dates, and Deadline for Submitting Applications.

Background

The United States Department of Commerce, International Trade Administration, is amending the Notice published at 85 FR 12259 (March 10, 2020), regarding the dates of ITA's planned Cybersecurity Business Development Mission to Peru, Chile, and Uruguay, with an optional stop in Argentina, which have been modified from October 5–9, and 13, 2020, to March 1–5, and 8, 2021. The new deadline for applications has been extended to November 13, 2020. Applications may be accepted after that date if space remains and scheduling constraints permit. Interested U.S. companies and trade associations/organizations that have not already submitted an application are encouraged to do so. The schedule is updated as follows:

Proposed Timetable

** Note:* The final schedule and potential site visits will depend on the availability of host government and business officials, specific goals of mission participants, and ground transportation.

Sunday, February 28, 2021	• Trade Mission Participants Arrive in Lima, Peru.
Monday, March 1, 2021	• Welcome and Country Briefing (Peru). • Presentations and/or cabinet/ministry meetings. • Networking Lunch. • One-on-One business matchmaking appointments. • Networking Reception at Ambassador's residence (TBC).
Tuesday, March 2, 2021.	• Travel to Santiago, Chile. • Welcome and Country Briefing (Chile). • Presentations.
Wednesday, March 3, 2021	• One-on-One business matchmaking appointments. • Networking Lunch. • Cabinet/Ministry meetings. • Networking Reception at Ambassador's residence (TBC).
Thursday, March 4, 2021	• (Morning) Travel to Montevideo, Uruguay. • (Afternoon) Welcome and Briefing. • Presentations by Uruguayan government entities.
Friday, March 5, 2021	• (Morning) Business atchmaking. • Closing Ambassador's reception (TBC). • (Afternoon) Trade mission participants depart for optional Argentina stop or return home.
Saturday–Sunday, March 6–7, 2021	• Travel day (End of Mission) or free time for Argentina optional stop participants.
Tuesday, March 8, 2021 (Optional)	• Welcome and Country Briefing (Argentina). • One-on-One business matchmaking appointments.

The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis in accordance with the Notice published at 85 FR 12259 (March 10, 2020). The applicants selected will be notified as soon as possible.

Contacts

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[FR Doc. 2020–16139 Filed 7–24–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–834–811]

Silicon Metal from the Republic of Kazakhstan: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable July 20, 2020.

FOR FURTHER INFORMATION CONTACT: Justin Neuman; AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0486.

SUPPLEMENTARY INFORMATION:

The Petition

On June 30, 2020, the Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of silicon metal from the Republic of Kazakhstan (Kazakhstan), filed in proper form on behalf of the petitioners,[1] domestic producers of silicon metal.[2] The Petition was accompanied by antidumping duty (AD) petitions concerning imports of silicon metal from Bosnia and Herzegovina, Iceland, and Malaysia.

On July 6 and 7, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petition in separate supplemental questionnaires.[3] The petitioners filed

[1] The petitioners are Globe Specialty Metals, Inc. and Mississippi Silicon LLC.

[2] *See* Petitioners' Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties: Silicon Metal from Bosnia and Herzegovina, Iceland, the Republic of Kazakhstan, and Malaysia,'' dated June 30, 2020 (the Petition).

[3] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping Duties on Imports of

Continued

responses to the supplemental questionnaires on July 8 and 10, 2020, respectively.[4]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that the Government of Kazakhstan (GOK) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of silicon metal in Kazakhstan, and that imports of such products are materially injuring, or threatening material injury to, the domestic silicon metal industry in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the petitioners provided reasonably available information in the Petition to support their allegations.

Commerce finds that the petitioners filed the Petition on behalf of the domestic industry, because the petitioners are an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioners demonstrated sufficient industry support necessary for the initiation of the requested CVD investigation.[5]

Period of Investigation

Because the Petition was filed on June 30, 2020, the period of investigation is January 1, 2019 through December 31, 2019.

Scope of the Investigation

The product covered by this investigation is silicon metal from Kazakhstan. For a full description of the scope of this investigation, *see* the appendix to this notice.

Scope Comments

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[6] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[7] all such factual information should be limited to public information. Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on August 10, 2020, which is 21 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on August 20, 2020, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information parties consider relevant to the scope of the investigation be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must also be filed on the records of the concurrent AD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS), unless an exception applies.[8] An electronically-filed document must be received successfully in its entirety by the time and date it is due.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified representatives of the GOK of the receipt of the Petition and provided them the opportunity for consultations with respect to the Petition.[9] Consultations were held with the GOK on July 13, 2020.[10] The GOK submitted consultation remarks on July 14, 2020.[11]

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[12] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[13]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to

Silicon Metal from Bosnia and Herzegovina, Iceland, and Malaysia and Countervailing Duties on Imports from Kazakhstan: Supplemental Questions,'' dated July 6, 2020; and ''Petition for the Imposition of Countervailing Duties on Imports of Silicon Metal from Kazakhstan: Supplemental Questions,'' dated July 7, 2020.

[4] *See* Petitioners' Letters, ''Silicon Metal from Bosnia and Herzegovina, Iceland, and Malaysia and Kazakhstan: General Volume Petition Supplement,'' dated July 8, 2020 (General Issues Supplement); and ''Silicon Metal from Kazakhstan: Volume V Petition Supplement,'' dated July 10, 2020.

[5] *See* the ''Determination of Industry Support for the Petition'' section, *infra.*

[6] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[7] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[8] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx,* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

[9] *See* Commerce's Letter, ''Countervailing Duty Petition on Silicon Metal from Kazakhstan: Invitation for Consultations,'' dated July 1, 2020.

[10] *See* Memorandum, ''Consultations with Officials from the Government of the Republic of Kazakhstan Regarding the Countervailing Duty Investigation of Silicon Metal from the Republic of Kazakhstan,'' dated July 14, 2020.

[11] *See* GOK's Letter, ''Silicon Metal from Kazakhstan,'' dated July 14, 2020.

[12] *See* section 771(10) of the Act.

[13] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioners do not offer a definition of the domestic like product distinct from the scope of the investigation.[14] Based on our analysis of the information submitted on the record, we have determined that silicon metal, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[15]

In determining whether the petitioners have standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the appendix to this notice. To establish industry support, the petitioners provided their actual 2019 production of the domestic like product.[16] To estimate the 2019 production for the entire U.S. silicon metal industry, the petitioners relied on their own 2019 production data and estimated production data reported for the non-petitioning producer (DC Alabama).[17] We relied on data provided by the petitioners for purposes of measuring industry support.[18]

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioners have established industry support for the Petition.[19] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[20] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[21] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[22] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.[23]

Injury Test

Because Kazakhstan is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Kazakhstan materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[24]

The petitioners contend that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; declining market share; underselling; price depression and suppression; lost sales and revenues; declines in capacity, production, shipments, employment, prices, revenue, and profitability; and declining financial performance.[25] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, and negligibility, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.[26]

Initiation of CVD Investigation

Based upon an examination of the Petition and supplemental responses, we find that the Petition meets the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of silicon metal from Kazakhstan benefit from countervailable subsidies conferred by the GOK.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on all eight of the alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* Kazakhstan CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

In the Petition, the petitioners named two companies as producers of silicon metal in Kazakhstan, as well as two additional companies as potential exporters.[27] On July 10, 2020, Commerce released U.S. Customs and Border Protection (CBP) data for U.S. imports of silicon metal from Kazakhstan under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the appendix to this notice under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of this investigation.[28] However, based on the

[14] *See* Volume I of the Petition at 25–28.

[15] For a discussion of the domestic like product analysis as applied to these cases, and information regarding industry support, *see* the Kazakhstan CVD Initiation Checklist at Attachment II (''Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Silicon Metal from Bosnia and Herzegovina, Iceland, Malaysia, and Kazakhstan'') (Attachment II). This checklist is dated concurrently with, and hereby adopted by, this notice and is on file electronically via ACCESS.

[16] *See* Volume I of the Petition at 3–4 and Exhibits I–2 and I–3; *see also* General Issues Supplement at 2.

[17] *See* Volume I of the Petition at 3–4 and Exhibit I–5; *see also* General Issues Supplement at 2.

[18] *See* Volume I of the Petition at 3–4 and Exhibit I–5; *see also* General Issues Supplement at 2. For further discussion, *see* Attachment II of the Kazakhstan CVD Initiation Checklist.

[19] *See* Volume I of the Petition at 3–4 and Exhibits I–2, I–3, and I–5; *see also* General Issues Supplement at 2. For further discussion, *see* Attachment II of the Kazakhstan CVD Initiation Checklist.

[20] *See* Attachment II of the Kazakhstan CVD Initiation Checklist; *see also* section 702(c)(4)(D) of the Act.

[21] *See* Attachment II of the Kazakhstan CVD Initiation Checklist.

[22] *Id.*

[23] *Id.*

[24] *See* Volume I of the Petition at 31 and Exhibit I–31.

[25] *See* Volume I of the Petition at 41–68 and Exhibits I–1, I–5 through I–7, I–10, I–13, I–15, I–16, I–18, I–20, I–23, I–24, I–32, I–34, and I–37 through I–59.

[26] *See* Kazakhstan CVD Initiation Checklist at Attachment III (''Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Silicon Metal from Bosnia and Herzegovina, Iceland, Kazakhstan, and Malaysia'') (Attachment III).

[27] *See* Volume I of the Petition at 2.

[28] *See* Memorandum, ''Petition for the Imposition of Countervailing Duties on Imports of Silicon Metal from Kazakhstan: Release of Entry Data,'' dated July 10, 2020.

CBP data, Commerce determines that there was not a large number of producers/exporters of silicon metal during the POI. Commerce therefore intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates for each publicly-identifiable company included in the CBP data. Therefore, we are selecting JSC NMC Tau-Ken Samruk and Tau-Ken Temir LLP as mandatory respondents in this proceeding. Interested parties that wish to comment on this selection, or on the CBP data, may do so within three business days of the publication date of this notice. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *http://enforcement.trade.gov/apo.* Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. on the date noted above, unless an exception applies.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOK via ACCESS. To the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of silicon metal from Kazakhstan are materially injuring, or threatening material injury to, a U.S. industry.[29] A negative ITC determination will result in this investigation being terminated.[30] Otherwise, this investigation will proceed according to the statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.301(b) the information is being submitted [31] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[32] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances Commerce will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting extension requests or factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[33] Parties must use the certification formats provided in 19 CFR 351.303(g).[34] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Commerce website at *http://enforcement.trade.gov/apo.* Parties wishing to participate in this investigation should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.,* by filing a notice of appearance). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[35]

This notice is issued and published pursuant to sections 702(c) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: July 20, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The scope of this investigation covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule

of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of this investigation.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While the HTSUS numbers are provided for convenience and customs purposes, the

[29] *See* section 703(a)(2) of the Act.

[30] *See* section 703(a)(1) of the Act.

[31] *See* 19 CFR 351.301(b).

[32] *See* 19 CFR 351.301(b)(2).

[33] *See* section 782(b) of the Act.

[34] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[35] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

written description of the scope remains dispositive.

[FR Doc. 2020–16221 Filed 7–24–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–893–001, A–400–001, A–557–820]

Silicon Metal From Bosnia and Herzegovina, Iceland, and Malaysia: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable July 20, 2020.

FOR FURTHER INFORMATION CONTACT: Jerry Huang at (202) 482–4047 (Bosnia and Herzegovina); or Kabir Archuletta at (202) 482–1766 (Iceland and Malaysia); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On June 30, 2020, the Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of silicon metal from Bosnia and Herzegovina (Bosnia), Iceland, and Malaysia filed in proper form on behalf of the petitioners,[1] domestic producers of silicon metal.[2] The Petitions were accompanied by a countervailing duty (CVD) petition concerning imports of silicon metal from the Republic of Kazakhstan.[3]

Between July 6 and 14, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires.[4] The petitioners filed responses to the supplemental questionnaires between July 8 and July 15, 2020.[5]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of silicon metal from Bosnia, Iceland, and Malaysia are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the domestic silicon metal industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioners supporting their allegations.

Commerce finds that the petitioners filed the Petitions on behalf of the domestic industry, because the petitioners are interested parties, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioners demonstrated sufficient industry support for the initiation of the requested AD investigations.[6]

Period of Investigation

Because the Petitions were filed on June 30, 2020, the period of investigation (POI) for the Bosnia, Iceland, and Malaysia AD investigations is April 1, 2019 through March 31, 2020, pursuant to 19 CFR 351.204(b)(1).

Scope of the Investigations

The product covered by these investigations is silicon metal from Bosnia, Iceland, and Malaysia. For a full description of the scope of these investigations, *see* the appendix to this notice.

Scope Comments

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[7] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,[8] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on August 10, 2020, which is 21calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on August 20, 2020, which is ten calendar days from the initial comment deadline.

Commerce requests that any factual information parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS), unless an exception applies.[9] An electronically-filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of silicon metal to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide

[1] The petitioners are Globe Specialty Metals, Inc. and Mississippi Silicon LLC.

[2] *See* Petitioners' Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties: Silicon Metal from Bosnia and Herzegovina, Iceland, the Republic of Kazakhstan, and Malaysia,'' dated June 30, 2020 (the Petitions).

[3] *Id.*

[4] *See* Commerce's Letters, ''Petition for the Imposition of Antidumping Duties on Imports of Silicon Metal from Bosnia and Herzegovina, Iceland, and Malaysia and Countervailing Duties on Imports from Kazakhstan: Supplemental Questions,'' dated July 6, 2020; and country-specific supplemental questionnaires: Bosnia Supplemental, Iceland Supplemental, Malaysia Supplemental, dated July 6, 2020; and Iceland Second Supplemental, Malaysia Second Supplemental, dated July 14, 2020.

[5] *See* Petitioners' First Country-Specific Supplemental Responses, dated July 8, 2020; and Petitioners' Letter, ''Silicon Metal from Bosnia and Herzegovina, Iceland, and Malaysia and Kazakhstan: General Volume Petition Supplement,'' dated July 8, 2020 (General Issues Supplement); *see also* Petitioners' Second Iceland Supplemental Response, Second Malaysia Supplemental Response, dated July 15, 2020.

[6] *See infra,* section on ''Determination of Industry Support for the Petitions.''

[7] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[8] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[9] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe silicon metal, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the physical characteristics in order of importance, from most important to least important.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on August 10, 2020. Any rebuttal comments must be filed by 5:00 p.m. ET on August 17, 2020. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[10] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[11]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioners do not offer a definition of the domestic like product distinct from the scope of the investigations.[12] Based on our analysis of the information submitted on the record, we have determined that silicon metal, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[13]

In determining whether the petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the appendix to this notice. To establish industry support, the petitioners provided their actual 2019 production of the domestic like product.[14] To estimate the 2019 production for the entire U.S. silicon metal industry, the petitioners relied on their own 2019 production data and estimated production data reported for the non-petitioning producer (DC Alabama).[15] We relied on data provided by the petitioners for purposes of measuring industry support.[16]

Our review of the data provided in the Petitions, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioners have established industry support for the Petitions.[17] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[18] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[19] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[20] Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.[21]

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is

[10] *See* section 771(10) of the Act.

[11] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[12] *See* Volume I of the Petitions at 25–28.

[13] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* the country-specific AD Initiation Checklists at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Silicon Metal from Bosnia and Herzegovina, Iceland, Malaysia, and Kazakhstan (Attachment II). These checklists are dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS.

[14] *See* Volume I of the Petitions at 3–4 and Exhibits I–2 and I–3; *see also* General Issues Supplement at 2.

[15] *See* Volume I of the Petitions at 3–4 and Exhibit I–5; *see also* General Issues Supplement at 2.

[16] *Id.* For further discussion, *see* Attachment II of the country-specific AD Initiation Checklists.

[17] *See* Volume I of the Petitions at 3–4 and Exhibits I–2, I–3, and I–5; *see also* General Issues Supplement at 2. For further discussion, *see* Attachment II of the country-specific AD Initiation Checklists.

[18] *See* Attachment II of the country-specific AD Initiation Checklists; *see also* section 732(c)(4)(D) of the Act.

[19] *See* Attachment II of the country-specific AD Initiation Checklists.

[20] *Id.*

[21] *Id.*

threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[22]

The petitioners contend that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; declining market share; underselling; price depression and suppression; lost sales and revenues; declines in capacity, production, shipments, employment, prices, revenue, and profitability; and declining financial performance.[23] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[24]

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of silicon metal from Bosnia, Iceland, and Malaysia. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the country-specific AD Initiation Checklists.

U.S. Price

For all countries, the petitioners based export price (EP) on the average unit value (AUV) of publicly-available import data.[25] The petitioners made certain adjustments to U.S. price to calculate a net ex-factory U.S. price.[26]

Normal Value [27]

For Bosnia and Iceland, the petitioners were unable to obtain home market prices for silicon metal produced and sold in the subject countries. Therefore, for Bosnia, the petitioners provided third country import AUVs for the POI, as well as price quotes to third countries.[28] The petitioners also provided information for Bosnia indicating that the AUVs and price quotes were below the COP and, therefore, the petitioners calculated NV based on CV.[29] For further discussion of CV, *see* the section ''Normal Value Based on Constructed Value.''

For Iceland, the petitioners based NV on AUVs of publicly available data for imports of silicon metal from Iceland into Germany.[30] The petitioners made certain adjustments to those prices to calculate an ex-factory third country price, in accordance with section 773 of the Act.[31]

For Malaysia, the petitioners based NV on home market price quotes obtained through market research for silicon metal produced and sold in Malaysia.[32] The petitioners made certain adjustments to those prices to calculate an ex-factory home market price, in accordance with section 773 of the Act.[33]

Normal Value Based on Constructed Value

As noted above, the petitioners demonstrated that the third country import AUVs and price quotes for Bosnia were below COP. Accordingly, the petitioners based NV on CV.[34] Pursuant to section 773(e) of the Act, the petitioners calculated CV as the sum of the cost of manufacturing, selling, general, and administrative expenses, financial expenses, and profit.[35] We recalculated the financial ratios submitted by the petitioners but made no other changes to their calculation of CV. [36]

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of silicon metal from Bosnia, Iceland, and Malaysia are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for silicon metal for each of the countries covered by this initiation are as follows: (1) Bosnia, 21.41 percent; (2) Iceland, 28.12–47.54 percent; and (3) Malaysia, 11.49—16.92 percent.[37]

Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of silicon metal from Bosnia, Iceland, and Malaysia are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

In the Petitions, the petitioners named five producers/exporters of silicon metal in Bosnia, four producers/exporters of silicon metal in Iceland, and six producers/exporters of silicon metal in Malaysia.[38]

Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of companies is large and that Commerce cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents in Bosnia, Iceland, and Malaysia based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the ''Scope of the Investigations,'' in the appendix.

For each country, on July 10, 2020, Commerce released CBP data on imports of silicon metal to all parties with access to information protected by Administrative Protective Order (APO) and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of these investigations.[39] Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO

[22] *See* Volume I of the Petitions at 31 and Exhibit I–31.

[23] *Id.* at 41–68 and Exhibits I–1, I–5 through I–7, I–10, I–13, I–15, I–16, I–18, I–20, I–23, I–24, I–32, I–34, and I–37 through I–59.

[24] *See* country-specific AD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Silicon Metal from Bosnia and Herzegovina, Iceland, Kazakhstan, and Malaysia (Attachment III).

[25] *See* country-specific AD Initiation Checklists.

[26] *Id.*

[27] In accordance with section 773(b)(2) of the Act, for these investigations, Commerce will request information necessary to calculate the constructed value (CV) and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. Commerce no longer requires a COP allegation to conduct this analysis.

[28] *See* AD Initiation Checklist for Bosnia.

[29] *Id.*

[30] *See* AD Initiation Checklist for Iceland.

[31] *Id.*

[32] *See* AD Initiation Checklist for Malaysia.

[33] *Id.*

[34] *See* AD Initiation Checklist for Bosnia, Iceland, and Malaysia.

[35] *Id.*

[36] *Id.*

[37] *Id.*

[38] *See* Volume I of the Petitions at pages 14–20 and Exhibit I–9.

[39] *See* country-specific memoranda, ''Release of Customs Data from U.S. Customs and Border Protection,'' dated July 10, 2020.

in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *http://enforcement.trade.gove/apo.*

Distribution of Copies of the AD Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the AD Petitions have been provided to the governments of Bosnia, Iceland, and Malaysia via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petitions to each exporter named in the AD Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the AD Petitions were filed, whether there is a reasonable indication that imports of silicon metal from Bosnia, Iceland, and Malaysia are materially injuring, or threatening material injury to, a U.S. industry.[40] A negative ITC determination for any country will result in the investigation being terminated with respect to that country.[41] Otherwise, these AD investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [42] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[43] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of a particular market situation (PMS) for CV, stating that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), sets a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[44] Parties must use the certification formats provided in 19 CFR 351.303(g).[45] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[46]

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: July 20, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Investigations

The scope of these investigations covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99

[40] *See* section 733(a) of the Act.

[41] *Id.*

[42] *See* 19 CFR 351.301(b).

[43] *See* 19 CFR 351.301(b)(2).

[44] *See* section 782(b) of the Act.

[45] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[46] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of these investigations.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

[FR Doc. 2020–16220 Filed 7–24–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–201–854]

Standard Steel Welded Wire Mesh From Mexico: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable July 20, 2020.

FOR FURTHER INFORMATION CONTACT: Joshua Tucker or Ian Hamilton, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2044 or (202) 482–4798, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On June 30, 2020, the Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of standard steel welded wire mesh (wire mesh) from Mexico filed in proper form on behalf of the petitioners,[1] domestic producers of wire mesh.[2] The Petition was accompanied by an antidumping duty (AD) petition concerning imports of wire mesh from Mexico.[3]

On July 2, 2020 and July 6, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petition,[4] to which the petitioners filed responses on July 7, 2020 and July 8, 2020, respectively.[5]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that the Government of Mexico (GOM) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of wire mesh in Mexico and that such imports are materially injuring, or threatening material injury to, the domestic industry producing wire mesh in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition was accompanied by information reasonably available to the petitioners supporting their allegations.

Commerce finds that the petitioners filed the Petition on behalf of the domestic industry because the petitioners are interested parties, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioners demonstrated sufficient industry support for the initiation of the requested CVD investigation.[6]

Period of Investigation

Because the Petition was filed on June 30, 2020, the period of investigation (POI) for this CVD investigation is January 1, 2019 through December 31, 2019, pursuant to 19 CFR 351.204(b)(2).[7]

Scope of the Investigation

The products covered by this investigation are wire mesh from Mexico. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on Scope of the Investigation

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[8] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[9] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on August 10, 2020, which is the next business day after 20 calendar days from the signature date of this notice.[10] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on August 20, 2020, which is ten calendar days from the initial comment deadline.

Commerce requests that any factual information parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such comments must also be filed on the record of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's (E&C's) Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[11] An electronically filed document must be received successfully in its entirety by the time and date it is due.

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[1] Insteel Industries, Inc.; Mid South Wire Company; National Wire LLC; Oklahoma Steel & Wire Co.; and Wire Mesh Corp. (collectively, the petitioners).

[2] *See* Petitioners' Letter, ''Standard Steel Welded Wire Mesh from Mexico—Petition for the Imposition of Antidumping and Countervailing Duties,'' dated June 30, 2020 (the Petition).

[3] *Id.*

[4] *See* Commerce's Letter, ''Petitions for the Imposition of Antidumping Duties and Countervailing Duties on Imports of Standard Steel Welded Wire Mesh from Mexico: Supplemental Questions,'' dated July 2, 2020; *see also* Commerce's Letter, ''Petition for the Imposition of Countervailing Duties on Standard Steel Welded Wire Mesh from Mexico: Supplemental Questions,'' dated July 6, 2020.

[5] *See* Petitioners' Letter, ''Standard Steel Welded Wire Mesh from Mexico—Petitioners' Amendment to Volume I Concerning General Issues,'' dated July 7, 2020 (General Issues Supplement); *see also* Petitioners' Letter, ''Standard Steel Welded Wire Mesh from Mexico—Petitioners' Amendment to Volume III Related to Countervailing Duties from Mexico,'' dated July 8, 2020.

[6] *See infra,* section on ''Information Related to Industry Support.''

[7] *See* 19 CFR 351.204(b)(2).

[8] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[9] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[10] *See* 19 CFR 351.303(b). Commerce's practice dictates that where a deadline falls on a weekend or Federal holiday, the appropriate deadline is the next business day (in this instance, August 10, 2020). *See also Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005); and 19 CFR 351.303(b).

[11] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOM of the receipt of the Petition and provided it the opportunity for consultations with respect to the CVD Petition.[12] The GOM requested consultations, which were held on July 17, 2020.[13]

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[14] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[15]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioners do not offer a definition of the domestic like product distinct from the scope of the investigation.[16] Based on our analysis of the information submitted on the record, we have determined that wire mesh, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[17]

In determining whether the petitioners have standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the appendix to this notice. To establish industry support, the petitioners provided their 2019 production of the domestic like product, as well as the 2019 production of Davis Wire Corporation and Liberty Steel USA., supporters of the Petition.[18] The petitioners compared the production of the supporters of the Petition to the estimated total production of the domestic like product for the entire domestic industry.[19] We relied on data provided by the petitioners for purposes of measuring industry support.[20]

From July 13–July 17, 2020, we received comments on industry support from Deacero S.A.P.I. de C.V, a Mexican producer, and its affiliated U.S. importer, Deacero USA, Inc. (collectively, Deacero).[21] The petitioners responded to these industry support comments on July 14 and July 16, 2020, respectively.[22]

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioners have established industry support for the Petition.[23] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[24] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[25] Finally, the domestic producers (or workers) have met the statutory criterion for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[26] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within

[12] *See* Commerce's Letter, ''Standard Steel Welded Wire Mesh from Mexico: Invitation for Consultation to Discuss the Countervailing Duty Petition,'' dated July 10, 2020.

[13] *See* Memorandum, ''Standard Steel Welded Wire Mesh from Mexico Countervailing Duty Petition: Consultations with the Government of Mexico,'' dated July 17, 2020.

[14] *See* section 771(10) of the Act.

[15] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989)).

[16] *See* Volume I of the Petition at 16–17; *see also* General Issues Supplement at 9–10.

[17] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Countervailing Duty Investigation Initiation Checklist: Standard Steel Welded Wire Mesh from Mexico (Mexico CVD Initiation Checklist) at Attachment II, ''Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Standard Steel Welded Wire Mesh from Mexico'' (Attachment II), dated concurrently with this notice and on file electronically via ACCESS.

[18] *See* Volume I of the Petition at 3–4 and Exhibit GEN–3.

[19] *See* Volume I of the Petition at 4 and Exhibits GEN–1 and GEN–3; *see also* General Issues Supplement at 11 and Exhibit GEN–SUPP–3.

[20] *Id.* For further discussion, *see* Mexico CVD Initiation Checklist at Attachment II.

[21] *See* Deacero's Letter, ''Standard Steel Welded Wire Mesh from Mexico—Request to Clarify Scope and to Poll Domestic Industry,'' dated July 13, 2020; Deacero's Letter, ''Standard Steel Welded Wire Mesh from Mexico—Continued Request to Clarify Scope and to Poll Domestic Industry,'' dated July 15, 2020; and Deacero's Letter, ''Standard Steel Welded Wire Mesh from Mexico—Third Request to Clarify Scope and to Poll Domestic Industry,'' dated July 17, 2020.

[22] *See* Petitioners' Letter, ''Standard Steel Welded Wire Mesh from Mexico—Petitioners' Response to Deacero's Request to Clarify Scope and to Poll Domestic Industry,'' dated July 14, 2020; *see also* Petitioners' Letter, ''Standard Steel Welded Wire Mesh from Mexico—Petitioners' Response to Deacero's Second Request to Clarify Scope and to Poll Domestic Industry,'' dated July 16, 2020.

[23] *Id.*

[24] *See* Mexico CVD Initiation Checklist at Attachment II; *see also* section 702(c)(4)(D) of the Act.

[25] *see* Mexico CVD Initiation Checklist at Attachment II.

[26] *Id.*

the meaning of section 702(b)(1) of the Act.[27]

Injury Test

Because Mexico is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Mexico materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[28]

The petitioners contend that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression and/or suppression; lost sales and revenues; decreasing capacity utilization rates and shipments; declines in employment variables; and declining financial performance and operating income.[29] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[30]

Initiation of CVD Investigation

Based upon the examination of the Petition and supplemental responses, we find that the Petition meets the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of wire mesh from Mexico benefit from countervailable subsidies conferred by the GOM. Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 16 of the 17 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* Mexico CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

In the Petition, the petitioners named nine companies in Mexico as producers/exporters of wire mesh.[31] Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of wire mesh from Mexico during the POI under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the ''Scope of the Investigation,'' in the appendix.

On July 15, 2020, Commerce released CBP data on imports of wire mesh from Mexico under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of this investigation.[32] Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on E&C's website at *http://enforcement.trade.gov/apo.*

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the CVD Petition has been provided to the GOM via ACCESS. Furthermore, to the extent practicable, we will attempt to provide a copy of the public version of the CVD Petition to each exporter named in the CVD Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the CVD Petition was filed, whether there is a reasonable indication that imports of wire mesh from Mexico are materially injuring, or threatening material injury to, a U.S. industry.[33] A negative ITC determination will result in the investigation being terminated.[34] Otherwise, the CVD investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted[35] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[36] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to

[27] *Id.*

[28] *See* Volume I of the Petition at 18–19 and Exhibit GEN–9.

[29] *See* Volume I of the Petition at 9–10, 15, 18–27 and Exhibits GEN–1, GEN–5, GEN–6 and GEN–9 through GEN–12; *see also* General Issues Supplement at 11 and Exhibit GEN–SUPP–5.

[30] *See* Mexico CVD Initiation Checklist at Attachment III, ''Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Standard Steel Welded Wire Mesh from Mexico.''

[31] *See* Volume I of the Petition at Exhibit GEN–7.

[32] *See* Memorandum, ''Standard Steel Welded Wire Mesh from Mexico Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection,'' dated July 15, 2020.

[33] *See* section 703(a)(1) of the Act.

[34] *Id.*

[35] *See* 19 CFR 351.301(b).

[36] *See* 19 CFR 351.301(b)(2).

submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.[37] For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting extension requests or factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[38] Parties must use the certification formats provided in 19 CFR 351.303(g).[39] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[40]

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: July 20, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The scope of this investigation covers uncoated standard welded steel reinforcement wire mesh (wire mesh) produced from smooth or deformed wire. Subject wire mesh is produced in square and rectangular grids of uniformly spaced steel wires that are welded at all intersections. Sizes are specified by combining the spacing of the wires in inches or millimeters and the wire cross-sectional area in hundredths of square inch or millimeters squared. Subject wire mesh may be packaged and sold in rolls or in sheets.

Subject wire mesh is currently produced to ASTM specification A1064/A1064M, which covers carbon-steel wire and welded wire reinforcement, smooth and deformed, for concrete in the following seven styles:

1. 6x6 W1.4/W1.4 or D1.4/D1.4
2. 6x6 W2.1/W2.1 or D2.1/D2.1
3. 6x6 W2.9/W2.9 or D2.9/D2.9
4. 6x6 W4/W4 or D4/D4
5. 6x12 W4/W4 or D4/D4
6. 4x4 W2.9/W2.9 or D2.9/D2.9
7. 4x4 W4/W4 or D4/D4

The first number in the style denotes the nominal spacing between the longitudinal wires and the second number denotes the nominal spacing between the transverse wires. In the first style listed above, for example, ''6x6'' denotes a grid size of six inches by six inches. ''W'' denotes the use of smooth wire, and ''D'' denotes the use of deformed wire in making the mesh. The number following the W or D denotes the nominal cross-sectional area of the transverse and longitudinal wires in hundredths of a square inch (*i.e.,* W1.4 or D1.4 is .014 square inches).

Smooth wire is wire that has a uniform cross-sectional diameter throughout the length of the wire.

Deformed wire is wire with indentations or raised transverse ribs, which results in wire that does not have a uniform cross-sectional diameter throughout the length of the wire.

Rolls of subject wire mesh are produced in the following styles and nominal width and length combinations:

Style: 6x6 W1.4/W1.4 or D1.4/D1.4 (*i.e.,* 10 gauge)
Roll Sizes:
5′ x 50′
5′ x 150′
6′ x 150′
5′ x 200′
7′ x 200′
7.5′ x 200′
Style: 6x6 W2.1/W2.1 or D2.1/D2.1 (*i.e.,* 8 gauge)
Roll Sizes: 5′ x 150′
Style: 6x6 W2.9/W2.9 or D2.9/D2.9 (*i.e.,* 6 gauge)
Roll Sizes:
5′ x 150′
7′ x 200′

All rolled wire mesh is included in scope regardless of length.

Sheets of subject wire mesh are produced in the following styles and nominal width and length combinations:

Style: 6x6 W1.4/W1.4 or D1.4/D1.4 (*i.e.,* 10 gauge)
Sheet Size:
3′6″ x 7′
4′ x 7′
4′ x 7′6″
5′ x 10′
7′ x 20′
7′6″ x 20′
8′ x 12′6″
8′ x 15′
8′ x 20′
Style: 6x6 W2.1/W2.1 or D2.1/D2.1 (*i.e.,* 8 gauge)
Sheet Size:
5′ x 10′
7′ x 20′
7′6″ x 20′
8′ x 12′6″
8′ x 15′
8′ x 20′
Style: 6x6 W2.9/W2.9 or D2.9/D2.9 (*i.e.,* 6 gauge)
Sheet Size:
3′6″ x 20′
5′ x 10′
7′ x 20′
7′6″ x 20′
8′ x 12′6″
8′ x 15′
8′ x 20′
Style: 6x12 W4/W4 or D4/D4 (*i.e.,* 4 gauge)
Sheet Size: 8′ x 20′
Style: 4x4 W2.9/W2.9 or D2.9/D2.9 (*i.e.,* 6 gauge)
Sheet Size:
5′ x 10′
7′ x 20′
7′6″ x 20′
8′ x 12′6″
8′ x 12′8″
8′ x 15′
8′ x 20′
Style: 4x4 W4/W4 or D4/D4 (*i.e.,* 4 gauge)
Sheet Size:
5′ x 10′
8′ x 12′6″
8′ x 12′8″
8′ x 15′
8′ x 20′

[37] *See* 19 CFR 351.302.

[38] *See* section 782(b) of the Act.

[39] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[40] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

Any product imported, sold, or invoiced in one of these size combinations is within the scope.

ASTM specification A1064/A1064M provides for permissible variations in wire gauges, the spacing between transverse and longitudinal wires, and the length and width combinations. To the extent a roll or sheet of welded wire mesh falls within these permissible variations, it is within this scope.

ASTM specification A1064/A1064M also defines permissible oversteeling, which is the use of a heavier gauge wire with a larger cross-sectional area than nominally specified. It also permits a wire diameter tolerance of ± 0.003 inches for products up to W5/D5 and ± 0.004 for sizes over W5/D5. A producer may oversteel by increasing smooth or deformed wire diameter up to two whole number size increments on Table 1 of A1064. Subject wire mesh has the following actual wire diameter ranges, which account for both oversteeling and diameter tolerance:

W/D Number	Maximum oversteeling Number	Diameter range (inch)
1.4 (*i.e.,* 10 gauge)	3.4	0.093 to 0.211.
2.1 (*i.e.,* 8 gauge)	4.1	0.161 to 0.231.
2.9 (*i.e.,* 6 gauge)	4.9	0.189 to 0.253.
4.0 (*i.e.,* 4 gauge)	6.0	0.223 to 0.280.

To the extent a roll or sheet of welded wire mesh falls within the permissible variations provided above, it is within this scope.

In addition to the tolerances permitted in ASTM specification A1064/A1064M, wire mesh within this scope includes combinations where:

1. A width and/or length combination varies by ± one grid size in any direction, *i.e.,* ± 6 inches in length or width where the wire mesh's grid size is ''6x6''; and/or

2. The center-to-center spacing between individual wires may vary by up to one quarter of an inch from the nominal grid size specified.

Length is measured from the ends of any wire and width is measured between the center-line of end longitudinal wires.

Additionally, although the subject wire mesh typically meets ASTM A1064/A1064M, the failure to include certifications, test reports or other documentation establishing that the product meets this specification does not remove the product from the scope. Wire mesh made to comparable foreign specifications (*e.g.,* DIN, JIS, etc.) or proprietary specifications is included in the scope.

Excluded from the scope is wire mesh that is galvanized (*i.e.,* coated with zinc) or coated with an epoxy coating. In order to be excluded as galvanized, the excluded welded wire mesh must have a zinc coating thickness meeting the requirements of ASTM specification A641/A641M. Epoxy coating is a mix of epoxy resin and hardener that can be applied to the surface of steel wire.

Merchandise subject to this investigation are classified under Harmonized Tariff Schedule of the United States (HTSUS) categories 7314.20.0000 and 7314.39.0000. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

[FR Doc. 2020–16186 Filed 7–24–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–888]

Certain Carbon and Alloy Steel Cut-to-Length Plate From the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review, and Intent to Rescind Review, in Part; 2018

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain carbon and alloy steel cut-to-length plate (CTL plate) from the Republic of Korea (Korea). The period of review is January 1, 2018 through December 31, 2018.

DATES: Applicable July 27, 2020.

FOR FURTHER INFORMATION CONTACT: Bob Palmer or Faris Montgomery, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–9068 and (202) 482–1537, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2019, Commerce published a notice of initiation of an administrative review of the countervailing duty (CVD) order on CTL plate from Korea.[1] On December 30, 2019, Commerce extended the deadline for the preliminary results of this review to no later than May 29, 2019.[2] On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days, thereby extending the deadline for these preliminary results until July 20, 2020.[3]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[4] A list of topics discussed in the Preliminary Decision Memorandum is included at the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Order

The merchandise covered by the order is carbon and alloy steel cut-to-length plate. For a complete description of the scope of the order, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(l)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 33739 (July 15, 2019).

[2] *See* Memorandum ''Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review; 2018,'' dated December 30, 2019.

[3] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID–19,'' dated April 24, 2020.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review; 2018: Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

preliminarily determine that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[5] For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Intent to Rescind Administrative Review, in Part

On August 13 and 14, 2019, Hyundai Steel Company and Dongkuk Steel Mill Co., Ltd. timely submitted no shipment certifications.[6] Because there is no evidence on the record to indicate that Hyundai Steel Company or Dongkuk Steel Mill Co., Ltd. had entries, exports, or sales of subject merchandise to the United States during the period of review, and U.S. Customs and Border Protection (CBP) did not provide Commerce with any contradictory information, we intend to rescind the review with respect to these companies in accordance with 19 CFR 351.213(d)(3).[7]

Companies Not Selected for Individual Review

Commerce calculated an individual estimated net countervailable subsidy rate for POSCO, the sole mandatory respondent in this segment of the proceeding, which is not zero, *de minimis,* or based entirely under section 776 of the Act. Pursuant to section 705(c)(5)(A)(i) of the Act, we are assigning POSCO's rate to all producers and exporters not selected for individual review. For further information on the calculation of the non-examined company rate, refer to the section in the Preliminary Decision Memorandum entitled ''Rate for Non-Examined Companies.''

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual net countervailable subsidy rate for POSCO. Commerce preliminarily determines that, during the period of review, the net countervailable subsidy rates for the producers/exporters under review are as follows:

Company	Net countervailable subsidy rate (percent *ad valorem*)
POSCO[8]	0.50
BDP International	0.50
Blue Track Equipment	0.50
Boxco	0.50
Bukook Steel Co., Ltd	0.50
Buma CE Co., Ltd	0.50
China Chengdu International Techno-Economic Cooperation Co., Ltd	0.50
Daehan I.M. Co., Ltd	0.50
Daelim Industrial Co., Ltd	0.50
Daesam Industrial Co., Ltd	0.50
Daesin Lighting Co., Ltd	0.50
Daewoo International Corp	0.50
Dong Yang Steel Pipe	0.50
Dongbu Steel Co., Ltd	0.50
Dongkuk Industries Co., Ltd	0.50
EAE Automotive Equipment	0.50
EEW KHPC Co., Ltd	0.50
Eplus Expo Inc	0.50
GS Global Corp	0.50
Haem Co., Ltd	0.50
Han Young Industries	0.50
Hyosung Corp	0.50
Jinmyung Frictech Co., Ltd	0.50
Kindus Inc	0.50
Korean Iron and Steel Co., Ltd	0.50
Kyoungil Precision Co., Ltd	0.50
Samsun C&T Corp	0.50
Shipping Imperial Co., Ltd	0.50
Sinchang Eng Co., Ltd	0.50
SK Networks Co., Ltd	0.50
SNP Ltd	0.50
Steel N People Ltd	0.50
Summit Industry	0.50
Sungjin Co., Ltd	0.50
Young Sun Steel	0.50

Assessment Rate

Consistent with section 751(a)(2)(C) of the Act, upon issuance of the final results, Commerce shall determine, and CBP shall assess, countervailing duties on all appropriate entries covered by this review. We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Rate

Pursuant to section 751(a)(2)(C) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount indicated above with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate (*i.e.,* 4.31 percent) applicable to the company, as appropriate.[9] These cash deposit instructions, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results.[10] Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results, and rebuttal comments (rebuttal briefs) within seven days[11] after the time limit for filing case briefs.[12] Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[13] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[14]

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS system within 30 days of publication of

[5] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[6] *See* Hyundai Steel Company's letter, ''Carbon and Alloy Steel Cut-To-Length Plate from Korea—Notice of No Sales,'' dated August 13, 2019; and Dongkuk Steel Mill Co., Ltd.'s letter, ''Administrative Review of the Countervailing Duty Order on Carbon and Alloy Steel Cut-to-Length Plate from Korea for the 2018 Review Period—No Shipments Letter,'' dated August 14, 2019.

[7] *See* Memorandum, ''Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea (C–580–888),'' dated June 19, 2020; *see also* Memorandum, ''Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea (C–580–888),'' dated June 22, 2020.

[8] As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with POSCO: POSCO Chemtech, POSCO M-Tech, Pohang Scrap Recycling Distribution Center Co., Ltd., POSCO Nippon Steel RHF Joint Venture Co., Ltd., POSCO Terminal and POSCO Daewoo Corporation. The subsidy rates apply to all cross-owned companies.

[9] *See Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Countervailing Duty Order,* 82 FR 24103 (May 25, 2017).

[10] *See* 19 CFR 351.224(b).

[11] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[12] *See* 19 CFR 351.309(c)(1)(ii) and (d)(1); *see also* 19 CFR 351.303 (for general filing requirements).

[13] *See* 19 CFR 351.309(c)(2) and (d)(2).

[14] *See Temporary Rule.*

this notice.[15] Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date and time of the hearing two days before the scheduled date.

Parties are reminded that all briefs and hearing requests must be filed electronically using ACCESS and received successfully in their entirety by 5 p.m. Eastern Time on the due date.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, Commerce intends to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after publication of these preliminary results.

Notification to Interested Parties

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213 and 351.221(b)(4).

Dated: July 20, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Review
IV. Diversification of Korea's Economy
V. Intent to Rescind, in Part, the Administrative Review
VI. Scope of the *Order*
VII. Rate for Non-Examined Companies
VIII. Subsidies Valuation Information
IX. Analysis of Programs
X. Recommendation

[FR Doc. 2020–16074 Filed 7–24–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey From the People's Republic of China: Final Results and Rescission of Antidumping Duty Administrative Review; 2017–2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that Jiangsu Runchen Agricultural/Sideline Foodstuff Co., Ltd. (Runchen) did not make a *bona fide* sale during the period of review (POR) of December 1, 2017 through November 30, 2018. Therefore, we are rescinding this administrative review.

DATES: Applicable July 27, 2020.

FOR FURTHER INFORMATION CONTACT: Jasun Moy, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–8194.

Background

On December 4, 2019, Commerce published the *Preliminary Results* and invited interested parties to comment.[1] On January 3, 2020, we received a case brief from Runchen.[2] On January 15, 2020, we received a rebuttal brief from the American Honey Producers Association and Sioux Honey Association (collectively, the petitioner).[3]

Scope of the Order

The merchandise subject to this order is natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight, and flavored honey. For a full description of the scope, *see* the Issues and Decision Memorandum.[4]

Analysis of Comments Received

All issues raised in Runchen's case brief are listed in the appendix to this notice and are addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum is available at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Bona Fides Analysis

In the *Preliminary Results,* we found that Runchen's sale of subject merchandise to the United States during the POR was not a *bona fide* sale. After analyzing interested parties' comments, we continue to find that Runchen's sale is not a *bona fide* sale. We reached this conclusion based on multiple factors, including: (1) The atypical nature of the price and quantity of the sale; (2) the profit, or lack thereof, made by Runchen's customer on the resale; and (3) other considerations, such as the timing of the payment from Runchen's customer, the fact that Runchen made only a single sale made during the POR, the lack of experience of the importer in the honey industry, and the lack of experience of Runchen in exporting honey to the United States. Our analysis led us to conclude that Runchen's POR sale is unlikely to be representative of its future sales.

Because we have determined that Runchen had no *bona fide* sales during the POR, we are rescinding this administrative review.

Assessment Rates

Because Commerce is rescinding this administrative review, we have not calculated a company-specific dumping margin for Runchen. Runchen remains part of the China-wide entity and the entry of its subject merchandise during the POR will be assessed antidumping duties at the China-wide entity rate. The China-wide entity rate is $2.63 per kilogram.[5]

Cash Deposit Requirements

As noted above, Commerce is rescinding this administrative review. Thus, we have not calculated a company-specific dumping margin for Runchen. Therefore, entries of Runchen's subject merchandise continue to be subject to the China-wide entity cash deposit rate of $2.63 per

[15] *See* 19 CFR 351.310(c).

[1] *See Honey from the People's Republic of China: Preliminary Results and Preliminary Intent to Rescind of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 66374 (December 4, 2019) (*Preliminary Results*).

[2] *See* Runchen's Letter, ''Honey from the PRC—Administrative Case Brief of Jiangsu Runchen Agricultural/Sideline Foodstuff Co., Ltd.,'' dated January 3, 2020. On January 9, 2020, Runchen timely refiled its case brief to remove new factual information. *See* Runchen's Letter, ''Honey from the PRC—Administrative Case Brief of Jiangsu Runchen Agricultural/Sideline Foodstuff Co., Ltd.,'' dated January 9, 2020; *see also* Memorandum, ''Administrative Review of the Antidumping Duty Order on Honey from the People's Republic of China: Rejection of Case Brief,'' dated January 8, 2020.

[3] *See* Petitioner's Letter, ''Honey from China: Petitioners' Rebuttal Brief,'' dated January 15, 2020.

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Antidumping Duty Administrative Review of Honey from the People's Republic of China; 2017–2018,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[5] *See Honey from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 80 FR 27633–34 (May 14, 2015).

kilogram. This cash deposit requirement shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(h)(1) and 19 CFR 351.221(b)(5).

Dated: July 21, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2020–16192 Filed 7–24–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–132]

Twist Ties From the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable July 16, 2020.

FOR FURTHER INFORMATION CONTACT: Darla Brown or Ajay Menon, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1791 or (202) 482–1993, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On June 26, 2020, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of twist ties from the People's Republic of China (China) filed in proper form on behalf of Bedford Industries, Inc. (the petitioner).[1] The Petition was accompanied by an antidumping duty (AD) petition concerning imports of twist ties from China.

Between June 30 and July 13, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petition,[2] to which the petitioner filed responses between July 2 and 13, 2020.[3]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of twist ties in China and that such imports are materially injuring, or threatening material injury to, the domestic industry producing twist ties in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition is supported by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigation.[4]

Period of Investigation

Because the Petition was filed on June 26, 2020, the period of investigation (POI) is January 1, 2019 through December 31, 2019.[5]

Scope of the Investigation

The merchandise covered by this investigation is twist ties from China. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on Scope of the Investigation

On June 30 and July 7, 2020, Commerce requested further information from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.[6] On July 6 and 9, 2020, the petitioner revised the scope.[7] The description of the merchandise covered by this investigation, as described in the

[1] *See* Petitioner's Letter, ''Petition for the Imposition of Antidumping and Countervailing Duties on Twist Ties from China,'' dated June 26, 2020 (the Petition).

[2] *See* Commerce's Letter, ''Petition for the Imposition of Countervailing Duties on Imports of Twist Ties from the People's Republic of China: Supplemental Questions,'' dated June 30, 2020; *see also* Commerce's Letter, ''Petition for the Imposition of Countervailing Duties on Imports of Twist Ties from the People's Republic of China: Supplemental Questions,'' dated July 2, 2020; Commerce's Letter, ''Petition for the Imposition of Countervailing Duties on Imports of Twist Ties from the People's Republic of China: Supplemental Questions,'' dated July 7, 2020; Memorandum, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Twist Ties from the People's Republic of China: Phone Call with Counsel to the Petitioner,'' dated July 7, 2020 (Phone Call Memorandum); and Memorandum, ''Twist Ties from the People's Republic of China Countervailing Duty Petition: Placing Document on the Record,'' dated July 13, 2020.

[3] *See* Petitioner's Letter, ''Petition for the Imposition of Antidumping and Countervailing Duties on Twist Ties from China: Response of Bedford Industries, Inc. to Supplemental Questionnaire,'' dated July 2, 2020 (First CVD Petition Supplement); *see also* Petitioner's Letter, ''Petition for the Imposition of Antidumping and Countervailing Duties on Twist Ties from China: Response of Bedford Industries, Inc. to Supplemental Questionnaire,'' dated July 7, 2020 (Second CVD Petition Supplement); Petitioner's Letter, ''Twist Ties from the People's Republic of China,'' dated July 9, 2020 (Second General Issues Supplement); and Petitioner's Letter, ''Twist Ties from the People's Republic of China,'' dated July 13, 2020 (General Issues Supplement).

[4] *See* ''Determination of Industry Support for the Petition'' section, *infra.*

[5] *See* 19 CFR 351.204(b)(2).

[6] *See* General Issues Supplemental at 3–4; *see also* Phone Call Memorandum.

[7] *See* Second General Issues Supplement at 3–4; *see also* Second General Issues Supplement at 3–4.

appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[8] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[9] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on August 5, 2020, which is 20 calendar days from the signature date of this notice.[10] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on August 17, 2020, which is the next business day after 10 calendar days from the initial comment deadline.[11]

Commerce requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such comments must also be filed on the record of the concurrent AD investigation.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's (E&C's) Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[12] An electronically filed document must be received successfully in its entirety by the time and date it is due.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOC of the receipt of the Petition and provided it the opportunity for consultations with respect to the CVD Petition.[13] The GOC requested consultations, which were held on July 14, 2020.[14]

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[15] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[16]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.[17] Based on our analysis of the information submitted on the record, we have determined that twist ties, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[18]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2019 and compared this to the estimated total production of the domestic like product for the entire domestic industry.[19] We have relied on the data provided by the petitioner for

[8] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[9] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[10] *See* 19 CFR 351.303(b).

[11] Commerce's practice dictates that where a deadline falls on a weekend or Federal holiday, the appropriate deadline is the next business day (in this instance, August 17, 2020). *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[12] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

[13] *See* Commerce's Letter, ''Twist Ties from the People's Republic of China: Invitation for Consultation to Discuss the Countervailing Duty Petition, '' dated June 26, 2020.

[14] *See* Memorandum, ''Twist Ties from the People's Republic of China Countervailing Duty Petition: Consultations with the Government of the People's Republic of China,'' dated July 15, 2020.

[15] *See* section 771(10) of the Act.

[16] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F. 2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989)).

[17] *See* Volume I of the Petition at 17–20 and Exhibit GEN–1; *see also* General Issues Supplement at 5–6; and Second General Issues Supplement at 4–5 and Supplemental Declaration from Jay Milbrandt (Supplemental Declaration).

[18] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Countervailing Duty Investigation Initiation Checklist: Twist Ties from the People's Republic of China (China CVD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Twist Ties from the People's Republic of China (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS.

[19] *See* Second General Issues Supplement at 2–3 and Supplemental Declaration.

purposes of measuring industry support.[20]

Our review of the data provided in the Petition, the General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.[21] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[22] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[23] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[24] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.[25]

Injury Test

Because China is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[26]

The petitioner contends that the industry's injured condition is illustrated by a significant volume and market share of subject imports; underselling and price depression and suppression; lost sales and revenues; declines in shipments and net sales; decline in financial performance; and low level of capacity utilization.[27] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[28]

Initiation of CVD Investigation

Based upon our examination of the Petition and supplemental responses, we find that the Petition meets the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of twist ties from China benefit from countervailable subsidies conferred by the GOC. Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 15 of the 20 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* China CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

The petitioner named six companies in China as producers/exporters of twist ties.[29] Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on quantity and value (Q&V) questionnaires issued to the potential respondents. Commerce normally selects mandatory respondents in CVD investigations using U.S. Customs and Border Protection (CBP) entry data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) numbers listed in the scope of the investigation. However, for this investigation, the main HTSUS numbers under which the subject merchandise would enter (*i.e.,* 5609.00.3000, and 8309.90.0000) are basket categories under which non-subject merchandise may enter. Therefore, we cannot rely on CBP entry data in selecting respondents. We intend instead to issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address.

Producers/exporters of twist ties from China that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain the Q&V questionnaire from E&C's website at *http://trade.gov/enforcement/news.asp.* Responses to the Q&V questionnaire must be submitted by the relevant Chinese producers/exporters no later than 5:00 p.m. ET on August 3, 2020. All Q&V responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above. Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOC via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of

[20] *See* General Issues Supplement at 7; *see also* Second General Issues Supplement at 2–3. For further discussion, *see* Attachment II of the China CVD Initiation Checklist.

[21] *See* Attachment II of the China CVD Initiation Checklist.

[22] *Id.; see also* section 702(c)(4)(D) of the Act.

[23] *See* Attachment II of the China CVD Initiation Checklist.

[24] *Id.*

[25] *Id.*

[26] *See* Volume I of the Petition at 22 and Exhibits GEN–1 and GEN–11 through GEN–13.

[27] *See* Volume I of the Petition at 8, 15–16, 21–29 and Exhibits GEN–1, GEN–8, and GEN–11; *see also* General Issues Supplement at 2 and 9–10; and Second General Issues Supplement at 3.

[28] *See* China CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Twist Ties from the People's Republic of China (Attachment III).

[29] *See* Volume I of the Petition at Exhibit GEN–6.

twist ties from China are materially injuring, or threatening material injury to, a U.S. industry.[30] A negative ITC determination will result in the investigation being terminated.[31] Otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [32] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[33] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.[34] For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting extension requests or factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[35] Parties must use the certification formats provided in 19 CFR 351.303(g).[36] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[37]

This notice is issued and published pursuant to sections 702(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: July 16, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Investigation

The merchandise covered by this investigation consists of twist ties, which are thin, bendable ties for closing containers, such as bags, bundle items, or identifying objects. A twist tie in most circumstances is comprised of one or more metal wires encased in a covering material, which allows the tie to retain its shape and bind against itself. However, it is possible to make a twist tie with plastic and no metal wires. The metal wire that is generally used in a twist tie is stainless or galvanized steel and typically measures between the gauges of 19 (.0410'' diameter) and 31 (.0132'') (American Standard Wire Gauge). A twist tie usually has a width between .075'' and 1'' in the cross-machine direction (width of the tie—measurement perpendicular with the wire); a thickness between .015'' and .045'' over the wire; and a thickness between .002'' and .020'' in areas without wire. The scope includes an all-plastic twist tie containing a plastic core as well as a plastic covering (the wing) over the core, just like paper and/or plastic in a metal tie. An all-plastic twist tie (without metal wire) would be of the same measurements as a twist tie containing one or more metal wires. Twist ties are commonly available individually in pre-cut lengths (''singles''), wound in large spools to be cut later by machine or hand, or in perforated sheets of spooled or single twist ties that are later slit by machine or by hand (''gangs'').

The covering material of a twist tie may be paper (metallic or plain), or plastic, and can be dyed in a variety of colors with or without printing. A twist tie may have the same covering material on both sides or one side of paper and one side of plastic. When comprised of two sides of paper, the paper material is bound together with an adhesive or plastic. A twist tie may also have a tag or label attached to it or a pre-applied adhesive attached to it.

Twist ties are imported into the United States under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8309.90.0000 and 5609.00.3000. Subject merchandise may also enter under HTSUS subheadings 3920.51.5000, 3923.90.0080, 3926.90.9990, 4811.59.6000, 4821.10.2000, 4821.10.4000, 4821.90.2000, 4821.90.4000, and 4823.90.8600. These HTSUS subheadings are provided for reference only. The written description of the scope of the investigation is dispositive.

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[30] *See* section 703(a)(1) of the Act.

[31] *Id.*

[32] *See* 19 CFR 351.301(b).

[33] *See* 19 CFR 351.301(b)(2).

[34] *See* 19 CFR 351.302.

[35] *See* section 782(b) of the Act.

[36] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[37] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Reporting Requirements for the Ocean Salmon Fishery Off the Coasts of Washington, Oregon, and California

The Department of Commerce will submit the following information

collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on March 27, 2020, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Emergency Commercial Salmon Landing Report.

OMB Control Number: 0648–0433.

Form Number(s): None.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 40.

Average Hours per Response: 15 minutes.

Total Annual Burden Hours: 10 hours.

Needs and Uses: Ocean salmon fisheries conducted in the U.S. exclusive economic zone, 3–200 nautical miles off the West Coast states of Washington, Oregon, and California, are managed by the Pacific Fishery Management Council (Council) and NOAA's National Marine Fisheries Service (NMFS) under the Magnuson Stevens Fishery Conservation and Management Act (MSA). Management measures for the ocean salmon fisheries are set annually, consistent with the Council's Pacific Coast Salmon Fishery Management Plan (FMP). The FMP provides a framework for managing the ocean salmon fisheries in a sustainable manner, as required under the MSA, through the use of conservation objectives, annual catch limits, and other reference points and status determination criteria described in the FMP. To meet these criteria, annual management measures, published in the **Federal Register** by NMFS, specify regulatory areas, catch restrictions, and landing restrictions based on the stock abundance forecasts. These catch and landing restrictions include area- and species-specific quotas for the commercial ocean salmon fishery, and generally require landings to be reported to the appropriate state agencies to allow for a timely and accurate accounting of the season's catch (50 CFR 660.404 and 50 CFR 660.408(o)). The best available catch and effort data and projections are presented by the state fishery managers in telephone conference calls involving the NMFS West Coast Regional Administrator and representatives of the Council. However, NMFS acknowledges that unsafe weather or mechanical problems could prevent commercial fishermen from making their landings at the times and places specified, and the MSA requires conservation and management measures to promote the safety of human life at sea. Therefore, the annual management measures will include provisions to exempt commercial salmon fishermen from compliance with the landing requirements when they experience unsafe weather conditions or mechanical problems at sea, so long as the appropriate notifications are made by, for example, at-sea radio and cellular telephone, and information on catch and other required information is given, under this collection of information. The annual management measures will specify the contents and procedure of the notifications, and the entities receiving the notifications (*e.g.,* U.S. Coast Guard). Absent this requirement by the Council, the state reporting systems would not regularly collect this specific type of in-season radio report. These provisions, and this federal collection of information, promote safety at sea and provide practical utility for sustainably managing the fishery, and ensure regulatory consistency across each state by implementing the same requirements in the territorial waters off each state This information collection is intended to be general in scope by leaving the specifics of the notifications for annual determination, thus providing flexibility in responding to salmon management concerns in any given year.

Affected Public: Business or other for-profit organizations (specifically, commercial salmon fishermen).

Frequency: Reporting under this emergency provision is infrequent.

Respondent's Obligation: Mandatory in order to deviate from landing requirements due to unsafe weather or mechanical problems.

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

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

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0433.

Sheleen Dumas,

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

[FR Doc. 2020–16241 Filed 7–24–20; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA305]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice; applications for 17 permit renewals, 1 permit modification, and 2 new permits.

SUMMARY: Notice is hereby given that NMFS has received 20 scientific research permit application requests relating to Pacific salmon and steelhead, eulachon, and green sturgeon. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts. The applications may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.*

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address (see **ADDRESSES**) no later than 5 p.m. Pacific Standard Time on August 26, 2020.

ADDRESSES: Because all West Coast NMFS offices are currently closed, all written comments on the applications should be sent in by email to *nmfs.wcr-apps@noaa.gov* (please include the permit number in the subject line of the email).

FOR FURTHER INFORMATION CONTACT: Rob Clapp, Portland, OR (ph.: 503–231–2314), email: *Robert.Clapp@noaa.gov*). Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Threatened Lower

Columbia River (LCR); threatened Puget Sound (PS); threatened Snake River (SnkR) spring/summer-run; threatened Upper Willamette River (UWR); threatened California Coastal (CC); Threatened Central Valley spring-run (CVS); Endangered Sacramento River winter-run (SacR).

Steelhead (*O. mykiss*): Threatened Middle Columbia River (MCR); Threatened LCR; Threatened UWR; threatened PS; threatened UCR; threatened Central California Coast (CCC); threatened California Central Valley (CCV); threatened Northern California (NC); threatened South-Central California Coast (SCCC); endangered Southern California (SC), Deschutes River steelhead non-essential population (NEP).

Chum salmon (*O. keta*): Threatened Columbia River (CR).

Coho salmon (*O. kisutch*): Threatened LCR; threatened Southern Oregon/Northern California Coast (SONCC); threatened CCC.

Eulachon (*Thaleichthys pacificus*): Threatened southern (S).

Green Sturgeon (*Acipenser medirostris*): Threatened southern (S).

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et. seq*) and regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see ADDRESSES). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

1336–9R

Port Blakely Tree Farms is seeking to renew for five years a permit that currently allows it to take juvenile UWR Chinook salmon, LCR Chinook salmon, LCR coho salmon, UWR steelhead and LCR steelhead in headwater streams in western Oregon and Washington. The purpose of the research is to evaluate factors limiting fish distribution and water quality in streams on land that Port Blakely Tree Farms owns and manages. The research would benefit listed salmonids by producing data to be used in conserving the species and restoring critical habitat. Port Blakely Tree Farms proposes to capture (using backpack electrofishing and dipnetting), handle, and release juvenile fish. The researchers do not intend to kill any fish being captured but a small number may die as an unintended result of the research activities.

13791–7R

The Lodi office of the U.S. Fish and Wildlife Service (USFWS) is seeking to renew for five years a permit that allows them to annually take adult and juvenile SacR winter-run Chinook salmon, CVS Chinook salmon, CCV steelhead, and Southern DPS green sturgeon while conducting research at long-term monitoring sites in the Sacramento River, San Joaquin River, San Joaquin Delta, San Pablo Bay, San Francisco Bay, Suisun Bay, and the Cache Slough complex in the California Central Valley as well as the San Joaquin Valley and San Francisco Estuary in California. Fish would be captured (Kodiak trawl, midwater trawl, beach seine, zooplankton net, larval net, gillnet, fyke net, purse seine, light trap, and boat electrofishing), handled (weighed, measured, and checked for marks or tags), and released. A subsample of adult and juvenile fish from any of the stated species would be marked, tagged, and/or sampled for biological tissue. Subsamples of hatchery-origin juvenile Sacramento River winter-run and Central Valley spring-run Chinook salmon and larval southern DPS green sturgeon will be lethally sampled for coded wire tag collection or larval fish species identification, respectively. The purpose of the research is to collect scientific data to evaluate and monitor: (1) Abundance, temporal and spatial distribution, and survival of salmonids and other fishes in the Sacramento and San Joaquin rivers and San Francisco Estuary; (2) occurrence and habitat use of fishes within the Liberty Island and Cache Slough Complex; (3) relative gear efficiency for all Interagency Ecological Program fish survey nets; (4) juvenile Chinook Salmon littoral habitat use in the Delta; (5) abundance and distribution of Delta Smelt; (6) length-at-date race criteria of winter-run sized and larger Chinook Salmon; (7) winter- and spring-run sized Chinook Salmon floodplain usage in the Yolo Bypass; and (8) salmonid genetics. The resulting data would be used to quantify the timing, distribution, and survival of salmon and steelhead migrating through the Delta. This information is imperative to understanding the complex interactions among water operations, abiotic and biotic conditions in the Delta, and population dynamics of species of management concern. The researchers are proposing to kill a subset of larval and hatchery-origin juvenile ESA-listed fish and, though it is not intended, a small number of juveniles and adults of all salmon and steelhead species may also be killed as an inadvertent result of the proposed sampling activities.

14516–3R

San Jose State University is seeking to renew for five years a permit that currently allows them to annually take juvenile and adult CCC coho salmon and steelhead while conducting research in Gazos Creek, Waddell Creek, Scott Creek, Pescadero Creek Lagoon, and San Gregorio Lagoon on the central coast of California. Fish would be captured (by using beach seines and backpack electrofishing), handled (weighed, measured, and checked for marks or tags), and released. A subsample of juvenile and all adult fish from both species would be marked and/or sampled for biological tissues. Carcasses would also be measured and sampled for biological tissues during spawning surveys. The purpose of the research is to continue monitoring coho salmon and steelhead year-to-year abundance, habitat utilization patterns, growth rates, and relative abundance among rearing life-history patterns. The resulting data would be used to guide management actions (including hatchery smolts releases) and help evaluate the relative importance of habitat types and how the interaction between coho salmon and steelhead affects juvenile rearing. The researchers are not proposing to kill any fish, but a small number of juveniles may be killed as an inadvertent result of these activities.

14808–5R

The California Department of Fish and Wildlife (CDFW) is seeking to renew for five years a permit that currently allows them to annually take juvenile and adult SacR winter-run Chinook salmon, CVS Chinook salmon, CCV steelhead, and southern DPS green sturgeon while conducting research in the Sacramento River in the California Central Valley. Fish would be captured (by using rotary screw traps, fyke traps, and beach seines), handled (weighed, measured, and checked for marks or tags), and released. The majority of the juvenile and adult fish from all species would be marked and/or sampled for biological tissues and a subsample

would be anesthetized and tagged (PIT, elastomer, or acoustic tag). A further a subsample of hatchery-origin juvenile SacR Chinook salmon would be intentionally lethally taken for coded wire tag recovery. Juvenile and adult Chinook salmon and steelhead from species would also be observed through snorkel and video/DIDSON surveys. The purpose of the research is to monitor—in real time—juvenile salmonids outmigration. It is also intended to evaluate how environmental conditions affect downstream juvenile movement, estimate steelhead population abundance, trends, and spatial distribution in the Central Valley, and document spawning activity and relative abundance of juvenile salmonids in recently restored habitat. The resulting data would be used to help manage downstream gates and water intakes in ways designed to reduce juvenile entrainment. The data would also be used to help managers develop recommendations for steelhead monitoring programs in support of species recovery and evaluate restoration project outcomes. The researchers are proposing to kill a subset of hatchery-origin juvenile ESA-listed fish captured, and a small number of juveniles of all species may be killed as an inadvertent result of sampling activities. The researchers are not proposing to kill any adult fish, but a small number may be killed as an inadvertent result of these activities.

15215–2R

The CDFW is seeking to renew for five years a permit that currently allows them to annually take juvenile and adult SacR winter-run Chinook salmon, CCC coho salmon, and SC steelhead anywhere in the State of California and its waters. This permit only allows the CDFW researchers to take dead or moribund fish in the event of an observed fish die-off. Dead or moribund fish found during such an event would be collected and tissue-sampled. Animals determined to be moribund due to such an event would be collected by hand- or dip-net and euthanized before being tissue-sampled. The collected tissue samples would be evaluated for pathogens, immunological response, or DNA testing. The purpose of the research is to understand the role of disease when fish die-off events occur. Data identifying die-off causes would be used to inform fishery and water resource management in ways designed to help avoid future such events. The researchers are not proposing to capture or kill any healthy live fish; only dead fish and those that CDFW pathologists or veterinarians determine are severely compromised and unlikely to survive would be taken.

15390–2R

The Resource Conservation District (RCD) of the Santa Monica Mountains is seeking to renew for five years a permit that currently allows them to annually take juvenile and adult SC steelhead in Topanga Creek and Malibu Creek in Los Angeles County, California. Fish would be captured (by using backpack electrofishing, fyke traps, and minnow traps), handled (weighed, measured, and checked for marks or tags), and released. A subsample of juveniles would be anesthetized, PIT-tagged, and sampled for biological tissues or stomach contents. The purpose of the research is to document the status of the population of Southern California steelhead in the coastal creeks of Santa Monica Bay, understand outmigration patterns, identify habitat constraints and restoration opportunities, and identify pathogens or diseases related to fish die-off events. The resulting data would be used to evaluate smolt production, recruitment, and seasonal habitat use in Topanga Creek and assess the contribution of various pathogens and diseases to mortality in Malibu creek. The researchers are not proposing to kill any fish, but a small number of juveniles may be killed as an inadvertent result of these activities.

16122–3R

The Colville Confederated Tribes (CCT) are seeking to renew for five years a permit that currently allows them to take juvenile UCR steelhead in the Okanogan River, Washington. The purpose of the research is to monitor steelhead populations in the basin. The researchers are seeking to estimate natural production and productivity and calculate annual population estimates, egg-to-emigrant survival, and emigrant-to-adult survival rates. The population estimates would be used to evaluate the effects of supplementation programs in the Okanogan River Basin and provide mangers with the data they need to determine spawning success. The research would benefit the fish by giving state and Federal managers information on UCR steelhead status and the degree to which they are being affected by supplementation programs in the area. The fish would be captured at screw trapping sites on the Okanogan River. All captured fish would be identified and checked for marks and tags. A subsample of selected fish would be measured and weighed before being released back into the Okanogan River. A further subsample would be marked with a brown dye, released upstream of the screw traps, and recaptured for the purpose of determining trap efficiency. The researchers do not intend to kill any listed salmonids, but a small number may die as an unintended result of the activities.

16290–4R

The Oregon Department of Fish and Wildlife (ODFW) is seeking to renew for five years a permit that currently authorizes them to take listed salmonids while conducting research on the Oregon Chub. The purpose of the research is to study the distribution, abundance, and factors limiting the recovery of Oregon chub. The ODFW would capture, handle, and release juvenile UWR Chinook salmon, UWR steelhead, LCR Chinook salmon, LCR steelhead, LCR coho salmon, and CR chum salmon while conducting the research. The Oregon chub is endemic to the Willamette Valley of Oregon and the habitats it depends on are important to salmonids. Research on the Oregon chub would benefit listed salmonids by helping managers recover habitats that the species share. The ODFW researchers would use boat electrofishing equipment, minnow traps, beach seines, dip nets, hoop nets, and fyke nets to capture juvenile fish. Researchers would avoid contact with adult fish. If listed salmonids are captured during the research they would be released immediately. The researchers do not expect to kill any listed salmonids but a small number may die as an unintended result of the research activities.

16417–3M

The Santa Clara Valley Water District is seeking to modify a permit that allows them to annually take juvenile and adult CCC steelhead and juvenile SCCC steelhead in the Guadalupe River, Coyote Creek, and Stevens Creek Watershed (Guadalupe Creek, Alamitos Creek, Calero Creek, Los Gatos Creek, Guadalupe River, Stevens Creek, Coyote Creek, and Upper Penitencia Creek), Pajaro Watershed (Pacheco Creek, Cedar Creek, North Fork Pacheco Creek, Middle Fork Pacheco Creek, South Fork Pacheco Creek, Hagerman Canyon, Uvas Creek, LLagas Creek, Bodfish Creek, Little Arthur Creek, Tar Creek, and Solis Creek), and Lake Almaden in North Santa Clara County, California. In addition to the currently authorized take, the applicants are requesting additional take of juvenile CCCC steelhead and juvenile SCCC steelhead. Fish would be captured (by using backpack electrofishing, boat electrofishing, and beach seines), handled (weighed, measured, and

checked for marks or tags), and released. A subsample of juveniles would be anesthetized, PIT-tagged, and sampled for biological tissues. No additional take is being requested for adult fish. The purpose of the research is to collect data on steelhead distribution, habitat use, survival rates, and movements. The resulting data would be used to fill knowledge gaps regarding steelhead distribution and relative abundance in Santa Clara County and help better align water district operations and fisheries management. The researchers are not proposing to kill any fish, but a small number of juveniles may be killed as an inadvertent result of these activities.

17063–3R

The U.S. Forest Service is seeking to renew for five years a permit that currently allows them to annually take juvenile SONCC coho salmon, NC steelhead, and CC Chinook salmon in the Mad River, Lower Eel River, Van Duzen River, and Weaver Creek drainage in the Mad-Redwood, Lower Eel, and Trinity River sub-basins of coastal Northern California. Fish would be captured (by using backpack electrofishing), handled (anesthetized, weighed, measured, and checked for marks or tags), and released. A subsample of SONCC coho would be PIT-tagged. The purpose of the research is to continue building long-term physical and biological data sets that would be used to develop an individual-based model of anadromous salmonids in Weaver Creek and monitor the distribution of non-native speckled dace in the Mad River and Eel River drainages. The resulting data would be used to assess the effectiveness of habitat restoration projects completed in recent years and study why speckled dace have not expanded their range in the Eel River. The researchers are not proposing to kill any fish, but a small number of individuals may be killed as an inadvertent result of these activities.

17272–2R

The U.S. Fish and Wildlife Service is seeking to renew for five years a permit that currently allows them to annually take juvenile and adult SONCC coho salmon in the mainstem Klamath River in Northern California. Adult fish would be observed during spawning surveys, and tissue samples would be collected from spawned adult carcasses. Juvenile fish would be captured (by using rotary screw traps, fyke traps, and beach seines), handled (weighed, measured, and checked for marks or tags), and released. The purpose of the research is to assess population status, health, habitat use, and mechanisms influencing disease in fish populations of the Klamath River Basin. The resulting data would be used to help managers understand the effects of flow and temperature conditions and timing on disease, the importance of specific habitats to aquatic species, the response of aquatic habitats to restoration actions, and how aquatic habitat is affected by human interaction. The researchers are not proposing to kill any fish, but a small number of juvenile fish may be killed as an inadvertent result of these activities.

17867–2R

The Humboldt Redwood Company (HRC) is seeking to renew for five years a permit that currently allows them to annually take juvenile and adult SONCC coho salmon, NC steelhead, and CCC Chinook salmon in the Lower Eel River, Van Duzen River, Freshwater Creek, Elk River, Mattole River, and Bear River in Humboldt County, California. Adult and juvenile fish would be observed via snorkel survey, and a subset of juvenile SONCC coho and NC steelhead would be captured (by using backpack electrofishing), handled (weighed, measured, and checked for marks or tags), and released. The purpose of the research is to determine the occurrence, distribution, population abundance, and habitat conditions of listed salmonids on HRC lands. The resulting data would be used to monitor, protect, restore and enhance the anadromous fishery resources in watersheds owned by HRC. The researchers are not proposing to kill any fish, but a small number of juvenile fish may be killed as an inadvertent result of these activities.

17877–3R

The U.S. Bureau of Reclamation is seeking to renew a permit that allows them to annually take juvenile and adult SONCC Coast coho salmon in the Trinity River and its tributaries in Trinity and Humboldt counties, California. Adult fish would be observed via snorkel surveys or spawning surveys, and tissue samples would be collected from carcasses found during spawning surveys. A small number of adults would be captured (by using barbless hook and line angling) when the researchers engage in sampling that targets invasive brown trout. Any listed fish caught in this manner would immediately be released. Juvenile coho salmon would also be observed via snorkel surveys and a subset would be captured (by using rotary screw traps, boat electrofishing, fyke traps, minnow traps, beach seines, and hand-netting during snorkel surveys), handled (anesthetized, weighed, measured, and checked for marks or tags), and released. A subsample of captured fish would be anesthetized and PIT-tagged prior to release. The purpose of the research is to assess juvenile salmonid abundance, run timing, length, weight, condition, health, habitat utilization, movement patterns, and growth, as well as to estimate the natural mainstem Trinity River spawning escapement and investigate the potential impacts of predation and competition by invasive brown trout. The resulting data would be used to (a) determine the relative value of habitat and its use where restoration projects are considered, (b) support development of a salmon production model for use in restoration planning, and (c) evaluate restoration effectiveness to determine if expected habitat improvements are being realized. The researchers are not proposing to kill any fish, but a small number of juveniles may be killed as an inadvertent result of these activities.

Permit 18921–2R

The Samish Indian Nation Department of Natural Resources (SINDNR) is seeking to renew for five years a research permit that currently allows it to annually take juvenile PS Chinook salmon and PS steelhead. The SINDNR research may also cause them to take adult S eulachon, for which there are currently no ESA take prohibitions. The sampling would take place in the marine waters adjacent to Cypress Island (of the San Juan Island archipelago) in Secret Harbor (Skagit County, WA). Secret Harbor restoration (2008–2018) involved the restoration of an agricultural field to its historical form by breaching an existing tidal dike, restoring tidal exchange and freshwater stream connectivity to the area, and replacing invasive plant species with native vegetation. The restored estuary and salt marsh habitats are expected to enhance and improve structural habitat complexity and potentially support a greater diversity of species. The purpose of the study is to determine fish presence both within and around the Secret Harbor estuary restoration site to continue studying the effectiveness of the restoration efforts. This research would benefit the affected species by informing future restoration designs and providing data to support future enhancement projects. The SINDAR proposes to capture fish by using beach seines during year-round monthly sampling events. Fish would be captured, identified to species, measured, and released. The researchers do not propose to kill any of the listed fish being captured, but a small number

may die as an unintended result of the activities.

18937–3R

The Scripps Institute of Oceanography is seeking to renew a permit that allows them to annually take juvenile and adult CC Chinook salmon, CCC coho salmon, and CCC steelhead in tributaries of the Russian River in Mendocino and Sonoma counties, California. Adult fish would be observed via snorkel surveys or spawning surveys, and tissue samples would be collected from carcasses found during spawning surveys. If any adults were to be unintentionally captured in juvenile sampling gear, they would immediately be released. Juvenile fish would also be observed via snorkel surveys and a subset would be captured (by using backpack electrofishing, hand- or dip-nets, funnel/pipe traps, and minnow traps), handled (anesthetized, weighed, measured, and checked for marks or tags), and released. A subsample would be anesthetized and PIT-tagged, have tissue samples taken, or have stomach contents sampled (non-lethally). The purpose of the research is to estimate salmonid population metrics such as abundance, survival, growth, and spatial distribution of multiple life stages in the Russian River watershed. The resulting data would be used to provide resource agencies with information relating to population metrics and thereby help them plan recovery actions such as hatchery releases, habitat enhancement projects, and stream flow improvement projects. The researchers are not proposing to kill any fish, but a small number of juveniles and post-spawn steelhead (kelts) may be killed as an inadvertent result of these activities.

19121–2R

The U.S. Geological Survey is seeking to renew a permit that allows them to annually take juvenile and adult SacR winter-run Chinook salmon, CVS spring-run Chinook salmon, CVS steelhead, and adult southern DPS green sturgeon in the north San Francisco Bay Delta (including the general Cache Slough complex, Little Holland Tract, and the Sacramento Deep Water Shipping Channel) downstream to the upper San Francisco Estuary in the vicinity of Suisun Bay in the San Francisco Estuary and Sacramento-San Joaquin Delta, California. Salmonids would be captured (by using boat electrofishing, fyke nets, gill nets, zooplankton nets, midwater trawls, otter trawls, and beach seines), handled (weighed, measured, and checked for marks or tags), and released. Any green sturgeon adults captured as a result of longline sampling would be anesthetized, PIT-tagged, and would be sampled for biological tissues prior to release. The purpose of this research is to study how physical and biological factors relate to fish assemblages and populations—particularly with regard to the distribution of delta smelt in tidal wetlands in the San Francisco Estuary and Delta. The resulting data would be used to address potential benefits of habitat restoration, specifically by identifying habitat characteristics in restored sites that are associated with plankton production sufficient to establish a food web supporting native fish populations. The data would also help researchers develop new research tools for studying delta smelt. The researchers are not proposing to kill any ESA-listed fish, but a small number of adult and juvenile fish may be killed as an inadvertent result of these activities. In addition, a small number of juvenile non-ESA listed (*i.e.,* fall-run) Chinook salmon would also be intentionally sacrificed for stomach contents analysis, and a small number of juvenile CVS spring-run Chinook salmon may be killed as part of this effort in the unlikely event that they are misidentified.

19320–2R

NOAA's Southwest Fisheries Science Center is seeking to renew for five years a permit that currently allows them to take juveniles and sub-adults from 10 species of listed salmonids: CC Chinook salmon, CVS Chinook salmon, LCR Chinook salmon, SacR winter-run Chinook salmon, SR spring/summer Chinook salmon, CCC coho salmon, SONCC coho salmon, CVS steelhead, CCC steelhead, and NC steelhead. The fish would primarily be captured by surface trawling, however beach seining may also occasionally be used. Sub-adult salmonids (*i.e.,* all salmon larger than 250 mm) that survive capture would have fin tissue and scale samples taken and then be released. All sub-adult salmonids that do not survive capture and all captured juvenile salmonids (*i.e.,* fish larger than 80 mm but less than 250 mm) would be lethally sampled (*i.e.,* intentional directed mortality) in order to collect: (1) Otoliths for age and growth studies; (2) coded wire tags for origin and age (hatchery fish); (3) muscle tissues for stable isotopes and/or lipid assays; (4) stomachs and contents for diet studies; and (5) other tissues including the heart, liver, intestines, and kidney for special studies upon request.

The research is intended to generate a great deal of information. It is designed to help scientists and managers: (1) Determine the inter-annual and seasonal variability in growth, feeding, and energy status among juvenile salmonids in the coastal ocean off northern and central California as well as southern Oregon; (2) determine migration paths and spatial distribution among genetically distinct salmonid stocks during their early ocean residence; (3) characterize the biological and physical oceanographic features associated with juvenile salmon ocean habitat from the shore to the continental shelf break; (4) identify potential links between coastal geography, oceanographic features, and salmon distribution patterns; and (5) identify and test ecological indices for salmon survival. This research would benefit listed fish by informing comprehensive lifecycle models that incorporate both freshwater and marine conditions and recognize the relationship between the two habitats. It would also identify and predict sources of salmon mortality at sea and thereby help managers develop indices of salmonid survival in the marine environment.

19437–2R

The University of California at Davis is seeking to renew for five years a permit that currently allows them to annually take juvenile and adult SacR winter-run Chinook salmon, CVS Chinook salmon, CCV steelhead, and southern DPS green sturgeon in the Cache-Lindsey complex, Sherman Lake complex, and Suisun Marsh in the Sacramento-San Joaquin Delta and San Francisco Estuary, California. Fish would be captured (by using boat electrofishing, otter trawls, and beach seines), handled (weigh, measure, and check for marks or tags), and released. Green sturgeon adults will also be scanned for PIT tags and may be sampled for biological tissues before being released release. The purpose of this research is to develop better understanding of how physical and biological habitat features (such as flow and other factors) interact to maintain assemblages of native and non-native species in the upper San Francisco Estuary—particularly in shallow water and marsh habitat. The resulting data would be used to help managers (a) understand how fishes commonly inhabiting Suisun Marsh use the Sacramento River corridor to access habitats in other parts of the estuary, (b) model fish abundance, (c) guide restoration projects to support native fishes, and (d) evaluate the response of the Delta ecosystem to drought. The researchers are not proposing to kill any

fish, but a small number of juvenile salmon and steelhead may be killed as an inadvertent result of these activities.

23649

Mount Hood Environmental is seeking a five-year permit that would allow them to annually take juvenile MCR steelhead from a non-essential experimental population in the Crooked River (Deschutes River watershed) in central Oregon. The researchers would use backpack electrofishing units and screw traps to capture the fish which would then be measured, weighed, checked for marks and tags, allowed to recover, and released back to the river. A subsample of the captured fish may also be tissue-sampled for genetic assays. The purpose of the research is to establish baseline population information (presence, abundance, density, etc.) on MCR steelhead and native redband trout in the vicinity of Bowman Dam, on the Crooked River. The work will benefit the species by helping managers maintain and operate Bowman Dam (and a possible new hydroelectric turbine proposed for construction there) in the most fish-friendly manner possible. The researchers do not intend to kill any of the fish being captured, but a small number may die as an unintended result of the activities.

23843

The Skagit River System Cooperative (SRSC) is seeking a five-year permit to capture juvenile PS Chinook salmon and PS steelhead in the Skagit River floodplain between river miles 54 and 79 (Skagit County, WA). The purpose of the study is to evaluate a restoration action designed to reconnect 1,700 acres (about 6.88 km^2) of Skagit River floodplain (Barnaby Slough) by monitoring its effect upon salmonid densities and productivity. Barnaby Slough was used as a rearing pond for hatchery steelhead by the Washington Department of Fish and Wildlife from the 1960's until 2007 and includes three dams, numerous dikes, and a smaller enclosed rearing pond. These features modify flow conditions and block fish passage to the slough and are slated for removal and restoration. This study will employ a Before-After-Control-Impact design with two years of pre-project and three years of post-project monitoring to evaluate fish and habitat relationships. This research would benefit the affected species by informing future restoration designs as well as providing impetus for future enhancement projects. The SRSC proposes to capture fish using fence-weir smolt traps and backpack and boat electrofishing equipment. Fish would be captured, identified to species, measured, fin clipped (caudal fin), dyed, and released. Observational methods such as snorkel and redd surveys would be used to inform and supplement the above methods. The researchers do not propose to kill any of the listed fish being captured, but a small number may die as an unintended result of the activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: July 21, 2020.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–16176 Filed 7–24–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA296]

Caribbean 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 Caribbean Fishery Management Council (CFMC) will hold the 170th public meeting (virtual) to address the items contained in the tentative agenda included in the **SUPPLEMENTARY INFORMATION**.

DATES: The 170th CFMC virtual public meeting will be held on August 11, 2020, from 9 a.m. to 4 p.m. and on August 12, 2020, from 9 a.m. to 12:30 p.m. The meeting will be at Eastern Daylight Time.

ADDRESSES: You may join the 170th CFMC virtual public meeting via GoToMeeting, from a computer, tablet or smartphone by entering the following address:

Tuesday, August 11, 2020, 9 a.m.–4 p.m. (GMT–04:00)

Please join the meeting from your computer, tablet or smartphone.

https://global.gotomeeting.com/join/440034621

You can also dial in using your phone.

United States: +1 (872) 240–3412
Access Code: 440–034–621

Get the app now and be ready when the first meeting starts:

https://global.gotomeeting.com/install/440034621

Wednesday, August 12, 2020, 9 a.m.—12:30 p.m. (GMT–04:00)

Please join the meeting from your computer, tablet or smartphone.

https://global.gotomeeting.com/join/972849573

You can also dial in using your phone.

United States: +1 (872) 240–3212
Access Code: 972–849–573

Get the app now and be ready when the first meeting starts:

https://global.gotomeeting.com/install/972849573

In case there are problems with GoToMeeting, and we cannot reconnect via GoToMeeting, the meeting will continue via Google Meet.

Tuesday, August 11, 2020, 9 a.m.–4 p.m., Atlantic Standard Time

Join with Google Meet
meet.google.com/gbs-xeaw-zzq

Wednesday, August 12, 2020, 9 a.m.–12:30 p.m. Atlantic Standard Time—Puerto Rico

Join with Google Meet
meet.google.com/nvm-nkcp-jmf

FOR FURTHER INFORMATION CONTACT: Miguel Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 398–3717.

SUPPLEMENTARY INFORMATION: The following items included in the tentative agenda will be discussed:

August 11, 2020, 9 a.m.—11 a.m.

—Call to Order
—Roll Call
—Swearing of New Council Members
—Election of Officers
—Adoption of Agenda
—Consideration of 169th Council Meeting Verbatim Transcriptions
—Executive Director's Report

August 11, 2020, 11 a.m.–11:10 a.m.

—Break

August 11, 2020, 11:10 a.m.–12 p.m.

—Scientific and Statistical Committee (SSC) Report on July 27–28, 2020, Meeting– Richard Appeldoorn

August 11, 2020, 12 p.m.–1 p.m.

—Lunch Break

August 11, 2020, 1 p.m.–1:30 p.m.

—Ecosystem-Based Fishery Management Technical Advisory Panel Report—Sennai Habtes

August 11, 2020, 1:30 p.m.–2 p.m.

—Southeast Fisheries Science Center Update

August 11, 2020, 2 p.m.–2:30 p.m.

—Five-Year Strategic Plan Update—Michell Duval

August 11, 2020, 2:30 p.m.–3:30 p.m.

—Gear Discussion: Allowable Gear Types
—Anchoring Discussion: Grammanik Bank

August 11, 2020, 3:30 p.m.–4 p.m.

—Public Comment Period (5-minute presentations)

August 11, 2020, 4 p.m.

—Adjourn

August 12, 2020, 9 a.m.–10 a.m.

—Island-Based Fishery Management Plans Update—Maria del Mar López
—Options Paper for Updating Spiny Lobster Annual Catch Limit on Island-Based Fishery Management Plans Based on SEDAR 57
—Discussion of Yellowtail Snapper Recreational Bag Limit under the St. Croix Fishery Management Plan

August 12, 2020, 10 a.m.–10:10 a.m.

—Break

August 12, 2020, 10:10 a.m.–10:40 a.m.

—Outreach and Education Advisory Panel Report—Alida Ortíz

August 12, 2020, 10:40 a.m.–11:40 a.m.

—Enforcement (15 minutes each)
—Puerto Rico—Department of Natural and Environmental Resources (DNER)
—U.S.V.I—Department of Planning and Natural Resources (DPNR)
—U.S. Coast Guard
—NOAA Fisheries Office of Law Enforcement

August 12, 2020, 11:40 a.m.–12 p.m.

—Other Business

August 12, 2020, 12 p.m.–12:30 p.m.

—Public Comment Period (5-minute presentations)

August 12, 2020, 12:30 p.m.

—Adjourn

The order of business may be adjusted as necessary to accommodate the completion of agenda items. The meeting will begin on August 11, 2020, at 9 a.m. EDT, and will end on August 12, 2020, at 12:30 p.m. EDT. Other than the start time on the first date, interested parties should be aware that discussions may start earlier or later than indicated in the agenda, at the discretion of the Chair.

Special Accommodations

Simultaneous interpretation will be provided.

Se proveerá interpretación en español.

Para interpretación en español puede marcar el siguiente número para entrar a la reunión:

US/Canadá: llame al +1–888–947–3988, cuando el sistema conteste, entrar el número 1*999996#.

For English interpretation you may dial the following number to enter the meeting:

US/Canada: call +1–888–947–3988, when the system answers enter the number 2*999996#.

For any additional information on this public virtual meeting, please contact Diana Martino, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 226–8849.

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

Dated: July 22, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–16179 Filed 7–24–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XX057]

International Affairs; U.S. Fishing Opportunities in the Northwest Atlantic Fisheries Organization Regulatory Area

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

ACTION: Notification of U.S. fishing opportunities.

SUMMARY: We are announcing 2020–2024 fishing opportunities in the Northwest Atlantic Fisheries Organization Regulatory Area. This action is necessary to make fishing privileges in the Regulatory Area available on an equitable basis to the extent possible. The intent of this notice is to alert U.S. fishing vessels of these fishing opportunities, to relay the available quotas available to U.S. participants, and to outline the process and requirements for vessels to apply to participate in this fishery. Allocation of these fishing privileges would be for five years, unless the approved vessel(s) are unable to successfully utilize the available quotas or the privilege is otherwise revoked.

DATES: These fishing opportunities are effective August 11, 2020 through December 31, 2024. Expressions of interest regarding fishing opportunities in NAFO will be accepted through August 11, 2020.

ADDRESSES: Expressions of interest regarding U.S. fishing opportunities in NAFO should be made in writing to Michael Pentony, U.S. Commissioner to the Northwest Atlantic Fisheries Organization (NAFO), NMFS Greater Atlantic Regional Fisheries Office, by emailing Moira Kelly, Senior Fishery Program Specialist, at *Moira.Kelly@noaa.gov.*

Information relating to chartering vessels of another NAFO Contracting Party, transferring NAFO fishing opportunities to or from another NAFO Contracting Party, or general U.S. participation in NAFO is available from Patrick E. Moran, NMFS Office of International Affairs and Seafood Inspection, email: *Pat.Moran@noaa.gov.*

Additional information about NAFO Conservation and Enforcement Measures and the High Seas Fishing Compliance Act Permit required for NAFO participation is available from Shannah Jaburek, NMFS Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930 (phone: 978–282–8456, fax: 978–281–9135, email: *Shannah.Jaburek@noaa.gov*) and online from NAFO at *https://www.nafo.int.*

FOR FURTHER INFORMATION CONTACT: Moira Kelly, (978) 281–9218.

SUPPLEMENTARY INFORMATION:

General NAFO Background

The United States is a Contracting Party to the Northwest Atlantic Fisheries Organization (NAFO). NAFO is an intergovernmental fisheries science and management body whose convention applies to most fishery resources in international waters of the Northwest Atlantic, except salmon, tunas/marlins, whales, and sedentary species such as shellfish. Currently, NAFO has 12 contracting parties from North America, Europe, Asia, and the Caribbean. NAFO's Commission is responsible for the management and conservation of the fishery resources in the Regulatory Area (waters outside the Exclusive Economic Zones (EEZ)). Figure 1 shows the NAFO Regulatory Area.

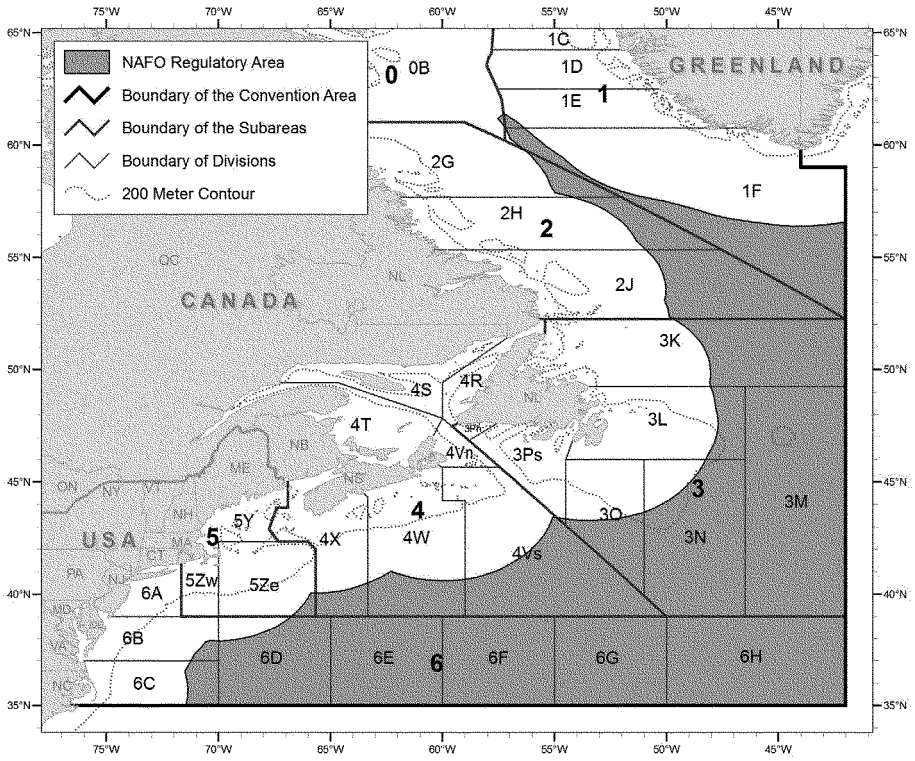

Figure 1. NAFO Convention Area including Statistical Subareas, Divisions, and Subdivisions.

As a Contracting Party within NAFO, the United States may be allocated catch quotas or effort allocations for certain species in specific areas within the NAFO Regulatory Area and may participate in fisheries for other species for which we have not received a specific quota. For most stocks for which the United States does not receive a specific allocation, an open allocation, known as the ''Others'' allocation under the Convention, is shared access between all NAFO Contracting Parties.

Additional information on NAFO can be found online at *https://www.nafo.int/About-us.* The NAFO Conservation and Enforcement Measures (CEM) that specify the fishery regulations, total allowable catches (TAC, quotas), and other information about the fishery program is available online at: *https://www.nafo.int/Fisheries/Conservation.* NAFO updates the CEM annually.

This notice announces the fishing opportunities available to U.S. vessels in NAFO regulatory waters, including specific stocks for which the United States has an allocation under NAFO or through arrangements with other Contracting Parties and fishing opportunities under the ''Other'' NAFO allocations. This notice also outlines the application process and other requirements for U.S. vessels that wish to participate in the 2020–2024 NAFO fisheries. Allocations, including the ''Others'' quotas, may vary based on decisions made at the NAFO Annual Meeting. Substantial changes in allocations may facilitate additional solicitations of fishing interest, which would be announced in the **Federal Register**, as necessary.

NAFO Fishing Opportunities Available to U.S. Fishing Vessels

The principal species managed by NAFO are Atlantic cod, yellowtail and witch flounders, Acadian redfish, American plaice, Greenland halibut, white hake, capelin, shrimp, skates, and *Illex* squid. NAFO specifies conservation measures for fisheries on these species occurring in its Regulatory Area, including TACs for these managed species that are allocated among NAFO Contracting Parties.

The United States receives annual quota allocations at the NAFO Annual Meetings for two stocks to be fished in the subsequent year (Division 3M Redfish and Subareas 3 and 4 *Illex* squid). For 2020, the United States was allocated 69 metric tons (mt) of 3M redfish and 453 mt of Subareas 3 and 4 *Illex* squid. The United States was also allocated 25 fishing days for the Division 3M shrimp fishery this year. NAFO is currently undertaking a process to move the 3M shrimp fishery away from days-at-sea to a quota-management scheme. In addition, the United States has agreed to receive a transfer of 1,000 mt of NAFO Division 3LNO yellowtail flounder from Canada's 2020–2024 quota allocations, consistent with a recent bilateral arrangement. This transfer arrangement may be modified or discontinued by either the United States or Canada prior to October 1 of each year. The Greater Atlantic Regional Fisheries Office will announce any changes to the arrangement, as necessary.

Fishing in the NAFO Regulatory Area requires substantial investment by the vessel owners. In recent years, NMFS has allocated U.S. fishing opportunity on an annual basis. However, it is often difficult for vessels to make sufficient market arrangements given the uncertainty of an annual allocation process. In addition, a recently negotiated bilateral arrangement with Canada provides for a transfer of 1,000 mt of 3LNO yellowtail flounder for 5 years. As such, we intend to allocate U.S. fishing privileges for the duration of the yellowtail flounder arrangement (through December 31, 2024) for all NAFO species the United States is

authorized to fish for, except 3M shrimp, which will be allocated for just 2020. The Greater Atlantic Regional Fisheries Office will announce future allocations of 3M shrimp based on further discussions of the management scheme within NAFO. If any approved vessel is unable to successfully utilize awarded fishing privileges, transfers to other approved vessels or additional solicitations of interest may be warranted.

Additional fishing opportunities may be available to U.S. vessels for stocks where the United States has not been allocated quota through the ''Others'' allocation, as noted in Annex I.A of the CEM. For 2020, the Others quotas are as follows:

TABLE 1—2020 NAFO OTHERS ALLOCATIONS

[mt, live weight]

Species	NAFO division	Others quota
Cod	3M	34
Redfish	3LN	109
	3M	124
	3O	100
Yellowtail Flounder	3LNO	85
Witch Flounder	3NO	12
White Hake	3NO	59
Skates	3LNO	258
Illex squid	Squid 3, 4 (Sub-Areas 3+4).	794

The United States shares the Others quota with other NAFO Contracting Parties and access is on a first come, first served basis across all Contracting Parties. Directed fishing is prohibited by NAFO when the Others quota for a particular stock has been fully harvested.

Additional directed quota for these and other stocks managed within the NAFO Regulatory Area could be made available to U.S. vessels through industry-initiated chartering arrangements or government-to-government transfers of quota from other NAFO Contracting Parties. If such additional quota becomes available, GARFO may publish additional solicitations of interest.

U.S. vessels participating in NAFO may also retain bycatch of NAFO managed species to the following maximum amounts as outlined in Article 6 of the CEM. The percentage, by weight, is calculated as a percent of each stock of the total catch of species listed in Annex I.A (*i.e.,* the NAFO managed stocks previously listed) retained onboard from the applicable division at the time of inspection, based on logbook information:

1. Cod, Division 3M: 1,250 kg or 5 percent, whichever is more;
2. Witch Flounder, Division 3M: 1,250 kg or 5 percent, whichever is more;
3. Redfish, Division 3LN: 1,250 kg or 5 percent, whichever is more;
4. Cod, Division 3NO: 1,000 kg or 4 percent, whichever is more;
5. American plaice: While conducting a directed fishery for yellowtail flounder in Divisions 3LNO: 15 percent of American plaice; otherwise, 1,250 kg or 5 percent, whichever is greater; and
6. For all other Annex I.A stocks where the United States has no specific quota, the bycatch limit is 2,500 kg or 10 percent, unless a ban on fishing applies or the quota for the stock has been fully utilized. If the fishery for the stock is closed or a retention ban applies, the permitted bycatch limit is 1,250 kg or 5 percent.

Opportunities to fish for species not listed above (*i.e.,* species listed in Annex I.A of the NAFO CEM and non-allocated on non-regulated species), but occurring within the NAFO Regulatory Area, including Atlantic halibut, may also be available. U.S. fishermen interested in fishing for these other species should contact the NMFS Greater Atlantic Regional Fisheries Office (see **ADDRESSES**) for additional information. Authorization to fish for such species will include permit-related conditions or restrictions, including but not limited to, minimum size requirements, bycatch-related measures, and catch limits. Any such conditions or restrictions will be designed to ensure the optimum utilization, long-term sustainability, and rational management and conservation of fishery resources in the NAFO Regulatory Area, consistent with the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries as well as the Amendment to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, which has been adopted by all NAFO Contracting Parties.

Applying for These Fishing Opportunities

Expressions of interest to fish for any or all of the 2020–2024 U.S. fishing opportunities in NAFO described above will be considered from all U.S. fishing interests (*e.g.,* vessel owners, processors, agents, others). Applicants are urged to carefully review and thoroughly address the application requirements and selection criteria as detailed below. Expressions of interest should be directed in writing to Regional Administrator Michael Pentony (see **ADDRESSES**).

Information Required in an Application Letter

Expressions of interest should include a detailed description of anticipated fishing operations for the full five years. Descriptions should include, at a minimum:

- Intended target species;
- Proposed dates of fishing operations;
- Vessel(s) to be used to harvest fish, including the name, registration, and home port of the intended harvesting vessel(s);
- The number of fishing personnel and their nationality involved in vessel operations;
- Intended landing port or ports; including for ports outside of the United States, whether or not the product will be shipped to the United States for processing;
- Processing facilities to be used;
- Target market for harvested fish; and,
- Evidence demonstrating the ability of the applicant to successfully

prosecute fishing operations in the NAFO Regulatory Area, in accordance with NAFO management measures. This may include descriptions of previously successful NAFO or domestic fisheries participation.

Note that applicant U.S. vessels must possess or be eligible to receive a valid High Seas Fishing Compliance Act (HSFCA) permit. HSFCA permits are available from the NMFS Greater Atlantic Regional Fisheries Office. Information regarding other requirements for fishing in the NAFO Regulatory Area is detailed below and is also available from the NMFS Greater Atlantic Regional Fisheries Office (see **ADDRESSES**).

U.S. applicants wishing to harvest U.S. allocations using a vessel from another NAFO Contracting Party, or hoping to enter a chartering arrangement with a vessel from another NAFO Contracting Party, should see below for details on U.S. and NAFO requirements for such activities. If you have further questions regarding what information is required in an expression of interest, please contact Patrick Moran (see **ADDRESSES**).

Criteria Used in Identifying Successful Applicants

Applicants demonstrating the greatest benefits to the United States through their intended operations will be most successful. Such benefits may include:

- The use of U.S vessels and crew to harvest fish in the NAFO Regulatory Area;
- Detailed, positive impacts on U.S. employment as a result of the fishing, transport, or processing operations;
- Use of U.S. processing facilities;
- Transport, marketing, and sales of product within the United States;
- Other ancillary, demonstrable benefits to U.S. businesses as a result of the fishing operation; and
- Documentation of the physical characteristics and economics of the fishery for future use by the U.S. fishing industry.

Other factors we may consider include but are not limited to: A documented history of successful fishing operations in NAFO or other similar fisheries; the history of compliance by the vessel with the NAFO CEM or other domestic and international regulatory requirements, including potential disqualification of an applicant with repeated compliance issues; and, for those applicants without NAFO or other international fishery history, a description of demonstrated harvest, processing, marketing, and regulatory compliance within domestic fisheries.

To ensure equitable access by U.S. fishing interests, we may provide additional guidance or procedures, or we may issue regulations designed to allocate fishing interests to one or more U.S. applicants from among qualified applicants. These regulatory changes may result in NMFS altering or amending quota the NMFS grants an applicant through this process. NMFS will notify any approved applicant of the proposed regulatory changes in advance of making the changes. After reviewing all requests for allocations submitted, we may also decide not to grant any allocations if it is determined that no requests adequately meet the criteria described in this notice.

Notification of Selected Vessels for NAFO Fisheries

We will provide written responses to all applicants notifying them of their application status and, as needed for successful applicants, allocation awards will be made as quickly as possible so that we may notify NAFO and take other necessary actions to facilitate operations in the regulatory area by U.S. fishing interests. Successful applicants will receive additional information from us on permit conditions and applicable regulations before starting fishing operations.

Mid-Term Allocation Adjustments

In the event that an approved U.S. entity does not, is not able to, or is not expected to fish an allocation, or part thereof, awarded to them, NMFS may reallocate to other approved U.S. entities. If requested, approved U.S. entities must provide updated fishing plans and/or schedules. A U.S. entity may not consolidate or transfer allocations without prior approval from NMFS. In the event that other approved U.S. entities are unable to fish additional allocation, NMFS may solicit further interest by notice in the **Federal Register**.

Chartering a Vessel To Fish Available U.S. Allocations

Under the bilateral arrangement with Canada, the United States may enter into a chartering (or other) arrangement with a Canadian vessel to harvest the transferred yellowtail flounder. For other NAFO-regulated species listed in Annexes I.A and I.B, the United States may enter into a chartering arrangement with a vessel from any other NAFO Contracting Party. Additionally, any U.S. vessel or fishing operation may enter into a chartering arrangement with any other vessel or business from a NAFO Contracting Party. The United States and the other Contracting Party involved in a chartering arrangement must agree to the charter, and the NAFO Executive Secretary must be advised of the chartering arrangement before the commencement of any charter fishing operations. Any U.S. vessel or fishing operation interested in making use of the chartering provisions of NAFO must provide at least the following information: The name and registration number of the U.S. vessel; a copy of the charter agreement; a detailed fishing plan; a written letter of consent from the applicable NAFO Contracting Party; the date from which the vessel is authorized to commence fishing; and the duration of the charter (not to exceed six months).

Expressions of interest using another NAFO Contracting Party vessel under charter should be accompanied by a detailed description of anticipated benefits to the United States, as described above. Additional detail on chartering arrangements can be found in Article 26 of the CEM (*https://www.nafo.int/Fisheries/Conservation*).

Any vessel from another Contracting Party wishing to enter into a chartering arrangement with the United States must be in full current compliance with the requirements outlined in the NAFO Convention and CEM. These requirements include, but are not limited to, submission of the following reports to the NAFO Executive Secretary:

- Notification that the vessel is authorized by its flag state to fish within the NAFO Regulatory Area during the applicable fishing year;
- Provisional monthly catch reports for all vessels of that NAFO Contracting Party operating in the NAFO Regulatory Area;
- Daily catch reports for each day fished by the subject vessel within the Regulatory Area;
- Observer reports within 30 days following the completion of a fishing trip; and
- An annual statement of actions taken by its flag state to comply with the NAFO Convention.

The United States may also consider the vessel's previous compliance with NAFO bycatch, reporting, and other provisions, as outlined in the NAFO CEM, before authorizing the chartering arrangement.

Transfer of U.S. Quota Allocations to Another NAFO Party

The United States may transfer fishing opportunities by mutual agreement with another NAFO Contracting Party and with prior notification to the NAFO Executive Secretary. An applicant may request to arrange for any of the

previously described U.S. opportunities to be transferred to another NAFO party, although such applications will likely be given lesser priority than those that involve more direct harvesting or processing by U.S. entities. Applications to arrange for a transfer of U.S. fishing opportunities should contain a letter of consent from the receiving NAFO Contracting Party, and should also be accompanied by a detailed description of anticipated benefits to the United States. As in the case of chartering operations, the United States may also consider a NAFO Contracting Party's previous compliance with NAFO bycatch, reporting, and other provisions, as outlined in the NAFO CEM, before agreeing to enter into a transfer arrangement.

Receiving a Transfer of NAFO Quota Allocations From Another NAFO Party

The United States may also receive transfers of additional fishing opportunities from other NAFO Contracting Parties. We are required to provide a letter consenting to such a transfer and must provide notice to the NAFO Executive Secretary. In the event that an applicant is able to arrange for the transfer of additional fishing opportunities from another NAFO Contracting Party to the United States, NMFS may agree to facilitate such a transfer. However, there is no guarantee that if an applicant has facilitated the transfer of quota from another Contracting Party to the United States, such applicant will receive authorization to fish for such quota. If quota is transferred to the United States, we may need to solicit new applications for the use of such quota. All applicable NAFO requirements for transfers must be met. As in the case of chartering operations, the United States may also consider a NAFO Contracting Party's previous compliance with NAFO bycatch, reporting, and other provisions, as outlined in the NAFO CEM, before agreeing to accept a transfer. Any fishing quota or other harvesting opportunities received via this type of transfer are subject to all U.S and NAFO rules as detailed below.

For more details on NAFO requirements for chartering and transferring NAFO allocations, contact Patrick Moran (see **ADDRESSES**).

Fishing in the NAFO Regulatory Area

U.S. applicant vessels must be in possession of, or obtain, a valid HSFCA permit, which is available from the NMFS Greater Atlantic Regional Fisheries Office. All permitted vessels must comply with any conditions of this permit and all applicable provisions of the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries and the CEM. We reserve the right to impose additional permit conditions that ensure compliance with the NAFO Convention and the CEM, the Magnuson-Stevens Fishery Conservation and Management Act, and any other applicable law.

The CEM provisions include, but are not limited to:

- Maintaining a fishing logbook with NAFO-designated entries (Annex II.A and Article 28);
- Adhering to NAFO hail system requirements (Annexes II.D and II.F; Article 28; Article 30 part B);
- Carrying an approved onboard observer for each trip consistent with requirements of Article 30 part A;
- Maintaining and using a functioning, autonomous vessel monitoring system authorized by issuance of the HSFCA permit as required by Articles 29 and 30; and
- Complying with all relevant NAFO CEM requirements, including minimum fish sizes, gear, bycatch retention, and per-tow move on provisions for exceeding bycatch limits in any one haul/set.

Further details regarding U.S. and NAFO requirements are available from the NMFS Greater Atlantic Regional Fisheries Office, and can be found in the NAFO CEM on the internet (*https://www.nafo.int/Fisheries/Conservation*).

Vessels issued valid HSFCA permits under 50 CFR part 300 are exempt from certain domestic fisheries regulations governing fisheries in the Northeast United States found in 50 CFR 648 when participating in NAFO fisheries. Specifically, vessels are exempt from the Northeast multispecies, monkfish, and skate requirements. These exemption include permit, mesh size, effort-control, minimum fish size, and possession limit restrictions, specified in §§ 648.4, 648.51, 648.53, 648.80, 648.82, 648.83, 648.86, 648.87, 648.91, 648.92, 648.94, 648.322. Exemptions apply while transiting the U.S. exclusive economic zone with multispecies and/or monkfish on board the vessel, or landing multispecies and/or monkfish in U.S. ports that were caught while fishing in the NAFO Regulatory Area. U.S. vessels fishing in NAFO may possess, retain, and land barndoor skate; however, they may not possess, retain, or land other prohibited skate species specified in §§ 648.14(v) and 634.322(g). These exemptions are conditional on the following requirements: The vessel operator has a letter of authorization issued by the Regional Administrator on board the vessel; for the duration of the trip, the vessel fishes, except for transiting purposes, exclusively in the NAFO Regulatory Area and does not harvest fish in, or possess fish harvested in, or from, the U.S. EEZ; when transiting the U.S. EEZ, all gear is properly stowed and not available for immediate use as defined under § 648.2; and the vessel operator complies with the provisions, conditions, and restrictions specified on the HSFCA permit and all NAFO CEM while fishing in the NAFO Regulatory Area.

Dated: July 20, 2020.

Alexa Cole,

Director, Office of International Affairs and Seafood Inspection, National Marine Fisheries Service.

[FR Doc. 2020–16132 Filed 7–24–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Reporting of Sea Turtle Entanglement in Fishing Gear or Marine Debris

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on March 27, 2020, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Reporting of Sea Turtle Entanglement in Fishing Gear or Marine Debris.

OMB Control Number: 0648–0496.

Form Number(s): None.

Type of Request: Regular submission [extension of a current information collection].

Number of Respondents: 116.

Average Hours Per Response: 2 to 2.5 hours per case (78 cases).

Total Annual Burden Hours: 169 hours.

Needs and Uses: NOAA's National Marine Fisheries Service (NMFS) manages the Sea Turtle Disentanglement Network (STDN) to respond to sea turtle entanglement in active or discarded fishing gear (in particular those involving the vertical line of fixed gear fisheries), marine debris, or other line in the marine environment. Entanglement has the potential to cause serious injury or mortality, which would negatively impact the recovery of endangered and threatened sea turtle populations. The STDN's goals are to increase reporting, to reduce serious injury and mortality to sea turtles, and to collect information that can be used for mitigation of these threats. As there is limited observer coverage of fixed gear fisheries, the STDN data are invaluable to NMFS in understanding the threat of entanglement and working towards mitigation.

Affected Public: Individuals or households; Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government; Federal government.

Frequency: Variable depending on reports of entanglement incidents; up to 78 cases annually.

Respondent's Obligation: Voluntary.

Legal Authority: 16 U.S.C. 35, Endangered Species Act of 1973.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0496.

Sheleen Dumas,

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

[FR Doc. 2020–16226 Filed 7–24–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA293]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a two-day meeting via webinar of its Standing, Reef Fish, Ecosystem and Socioeconomic Scientific and Statistical Committees (SSC).

DATES: The meeting will be held on Tuesday, August 11, 2020, from 9 a.m. to 4 p.m. and Wednesday, August 12, 2020, from 9 a.m. to 12 noon, EDT.

ADDRESSES: The meeting will take place via webinar; you may register by visiting *www.gulfcouncil.org* and clicking on the SSC meeting on the calendar.

Council address: Gulf of Mexico Fishery Management Council, 4107 W. Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Ryan Rindone, Lead Fishery Biologist, Gulf of Mexico Fishery Management Council; *ryan.rindone@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Tuesday, August 11, 2020; 9 a.m.–4 p.m., EDT

The meeting will begin with Introductions and Adoption of Agenda, Approval of Minutes from the July 21–23, 2020 webinar meeting, and review of Scope of Work.

The Committees will receive a Summary of Gulf State Methods and Resulting Calibrations; and, SSC Discussion and Recommendations for Alabama, Florida, Louisiana, and Mississippi.

Lunch: 12 Noon–1 p.m., Eastern Time

The Committees will review the Results of Individual State Calibrations and State Specific Annual Catch Limits; Presentation, Background Documentation, and SSC Discussion and Recommendations.

The Committees will discuss the Tasks for Gulf Transition Team: Revisiting and Updating Calibrations, Transparency in Data Delivery, Management, Accessibility, and QA & QC, Future Research, Examining Drivers for Differences between Survey Estimates, and SSC Discussion and Recommendations.

Wednesday, August 12, 2020; 9 a.m.–12 Noon, EDT

The Committees will reconvene and continue discussing items from Day 1, review Public Comments, and discuss any Other Business items.

–Meeting Adjourns

The meeting will be broadcast via webinar. You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the SSC meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the Scientific and Statistical Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Scientific and Statistical Committee will be restricted to those issues specifically identified in the agenda and any issues

arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

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

Dated: July 22, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–16178 Filed 7–24–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2020–OS–0008]

Submission for OMB Review; Comment Request

AGENCY: The Office of Net Assessment, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by August 26, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Exploring Civil-Military Views Regarding AI and Related Technologies OMB Control Number 0704–XXXX.

Type of Request: New.

Number of Respondents: 5,210.

Responses per Respondent: 1.

Annual Responses: 5,210.

Average Burder per Response: 16 minutes.

Annual Burden Hours: 1,390.

Needs and Uses: The U.S. DoD is requesting approval from the Office of Management and Budget (OMB) to conduct a survey with members of the software engineering community, employees of defense and aerospace companies, and the general public. The study will also conduct focus groups with members of the software engineering community and students from computer science programs. This project is funded by the U.S. Department of Defense, Joint Artificial Intelligence Center (JAIC). JAIC has contracted with the RAND Corporation, a non-profit research institute, to conduct this study. This data collection will help ensure DoD's ability to engage with leading private sector technology corporations and their employees.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

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

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: July 20, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–16147 Filed 7–24–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–OS–0080]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by August 26, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application for Discharge of Member or Survivor of Group Certified to have Performed Active Duty with the Armed Forces of the United States; DD Form 2168; OMB Control Number 0704–0100.

Type of Request: Reinstatement with change.

Number of Respondents: 500.

Responses per Respondent: 1.

Annual Responses: 500.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 250 hours.

Needs and Uses: The purpose of this information collection is to assist the Secretary of a Military Department or United States Coast Guard (USCG) in determining if an applicant was a member of a group that has been found to have performed active military service. If the information requested on the DD Form 2168, Application for Discharge of Member or Survivor of Member of Group Certified to Have Performed Active Duty with the Armed Forces of the United States, is compatible with that of a corresponding approved group and the applicant can provide supporting evidence, he or she will receive veteran's status in accordance with the provisions of DoD Directive 1000.20, as established by 38 U.S.C. 106. The information from the DD Form 2168 will be extracted by the appropriate military personnel office and used to complete the DD Form 214, ''Certificate for Release or Discharge from Active Duty.'' The Veterans Administration uses information on the DD Form 2168 to verify benefits eligibility. The form can be electronically accessed and downloaded from the following Defense Link Publication site: *http://www.dod.gov/pubs/.*

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary, but required to receive benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

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

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: July 20, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–16168 Filed 7–24–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2020–OS–0067]

Proposed Collection; Comment Request

AGENCY: Under Secretary of Personnel and Readiness, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense, Personnel and Readiness, announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 25, 2020.

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

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

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

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Assistant Secretary of Defense for Readiness, Force Education and Training, Voluntary Education, ATTN: Ms. Dawn Bilodeau, Pentagon, Room 2E573, Washington, DC 20301–1500, call 571–372–0864, or send email to project officer at: *dawn.a.bilodeau.civ@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: DoD Postsecondary Education Complaint Intake Form, DD Form 2961; OMB Control Number 0704–0501.

Needs and Uses: The information collection requirement is necessary to obtain, document, and respond to egregious complaints, questions, and other information concerning actions post-secondary education programs and services provided to military service members and spouse-students. The DoD Postsecondary Education Complaint Intake form will provide pertinent information such as: The content of the complaint, the educational institution the student is attending, the level of study, the education program the student is enrolled in, the type of education benefits being used, the branch of the military service, and the preferred contact information.

Affected Public: Individuals or households; business or other for-profits; not-for-profit institutions.

Annual Burden Hours: 16.

Number of Respondents: 63.

Responses per Respondent: 1.

Annual Responses: 63.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Respondents are military spouses who submit complaints via the Department of Defense (DoD) Postsecondary Education Complaint Intake form. The PECS Intake form is used to record complaints concerning educational institutions that military spouses feel have acted deceptively, aggressively or fraudulently towards them. The Intake form documents information such as the level of study of the student, the educational institution the student is attending, the type of education benefits being used, the branch of the military service the spouses' sponsor, the content of the complaint, and the preferred contact information for the person making the contact. Complaint Case Managers use information from the Intake form to track and manage cases and to coordinate a resolution with educational institutions, and to provide feedback to the respondent throughout the process and once a resolution has been reached.

Dated: July 20, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–16174 Filed 7–24–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement for a Proposed Landfill Expansion within Wetlands that Drain to Burnetts Mill Creek at the Existing Regional Landfill off Merged U.S. Routes 58, 13, and 460 in Suffolk, Virginia

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps) will prepare an Environmental Impact Statement (EIS) to evaluate project alternatives and the public interest review factors, as well as the effects on 129 acres of forested wetlands for the proposed landfill expansion.

DATES: The proposed project's virtual public scoping room will be available from July 31, 2020 through September 14, 2020.

ADDRESSES: U.S. Army Corps of Engineers, Norfolk District, 803 Front Street, Norfolk, VA 23510.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and the Draft Environmental Impact Statement (DEIS) can be answered by: Melissa Nash, U.S. Army Corps of Engineers, Norfolk District, 803 Front Street, Norfolk, VA 23510, (757) 201–7489 or email: *spsa-eis@usace.army.mil.*

Project website: *www.nao.usace.army.mil/Missions/Regulatory/SPSAPermit/*

SUPPLEMENTARY INFORMATION: 1. Proposed Action: Southeastern Public Service Authority (SPSA) proposes to expand landfill operations into Cells VIII and IX at the existing Regional Landfill. The landfill expansion would impact approximately 129 acres of nontidal, forested wetlands, which are waters of the United States regulated under Section 404 of the Clean Water Act (33 U.S.C. 1344); therefore, a Department of the Army Individual

Permit would be required for the proposed action.

2. Alternatives: Alternatives, which will be investigated include, but will not be limited to: alternate onsite layouts, alternative technologies, hauling, off-site alternatives, a combination of alternatives, and the no project alternative.

3. Scoping Process: The Corps held a pre-scoping interagency meeting with State and federal agencies on May 7, 2020. The significant issues identified thus far include: potential impacts to forested wetlands, the Dismal Swamp National Wildlife Refuge, wildlife habitat, and environmental justice communities.

4. Public Scoping Meeting: The Corps will issue a Public Notice to inform the public about the project's virtual scoping meeting room, which will be a link on the project website listed above. The public and agencies will be able to submit comments to the address listed above or on the virtual scoping room from July 31, 2020 through September 14, 2020.

5. DEIS Availability: The Corps estimates that the DEIS will be available to the public for review and comment around the beginning of 2021.

Dated: July 21, 2020.

Karen J. Baker,

Programs Director, North Atlantic Division, U.S. Army Corps of Engineers.

[FR Doc. 2020–16177 Filed 7–24–20; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Out of School Time Career Pathway Program; Correction

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice; correction.

SUMMARY: On June 22, 2020, the Office of Elementary and Secondary Education published in the **Federal Register** a notice inviting applications (NIA) for new awards for fiscal year (FY) 2020 for the Out-of-School Time Career Pathway Program, Catalog of Federal Domestic Assistance (CFDA) number 84.287D. We are correcting the information regarding the *Grants.gov* registration requirements. All other information in the NIA, including the September 21, 2020, deadline for transmittal of applications, remains the same.

DATES: This correction is applicable July 27, 2020.

FOR FURTHER INFORMATION CONTACT: Erin Shackel, U.S. Department of Education, 400 Maryland Avenue SW, Room 111, LBJ, Washington, DC 20202. Telephone: (202) 453–6423. Email: *21stCCLCcompetition@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On June 22, 2020, we published in the **Federal Register** an NIA for new awards for FY 2020 for the Out-of-School Time Career Pathway Program (85 FR 37438). In the NIA, we indicated that *Grants.gov* had relaxed the requirement for applicants to have an active registration in the System for Award Management (SAM) in order to apply for funding during the COVID–19 pandemic. This flexibility ended the business day before this notice published. Therefore, an applicant must have an active SAM registration in order to submit an application.

All other information in the NIA, including the September 21, 2020, deadline for transmittal of applications, remains the same. Instructions for submitting an application can be found in the NIA.

Correction

In FR Doc. 2020–13304 appearing on page 37438 in the **Federal Register** of June 22, 2020, the following correction is made:

1. On page 37441, in the third column, replace the second paragraph under the heading ''1. *Application Submission Instructions:* ''with the following:

An applicant must use *Grants.gov* to apply and *Grants.gov* requires applicants to have an active registration in the System for Award Management (SAM) in order to apply for funding. An applicant that does not have an active SAM registration can register with *Grants.gov.* With questions, please contact the *Grants.gov* Support Desk, toll-free, at 1–800–518–4726. Note: Once your *SAM.gov* registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, *Grants.gov.*

Program Authority: Title IV, part B of the Elementary and Secondary Education Act of 1965, as amended, section 4202(a)(2), 20 U.S.C. 7172(a)(2).

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

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

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

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2020–16140 Filed 7–24–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2019–IES–0073]

Privacy Act of 1974; System of Records

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (the Department) publishes this notice of a new system of records entitled ''National Evaluation of the Striving Readers Comprehensive Literacy and Comprehensive Literacy State Development Programs'' (18–13–45). This system contains individually identifying information of principals, teachers, and students voluntarily provided by grantees, subgrantees, and individuals that participate in the Striving Readers Comprehensive Literacy (SRCL) program and the Comprehensive Literacy State Development (CLSD) program. The SRCL program and the CLSD program both provide high-quality literacy instruction to improve the reading and writing skills of students from birth through grade 12. The information in this system will be used to conduct a national evaluation of the SRCL program's implementation and outcomes and the CLSD program's implementation and effectiveness.

DATES: Submit your comments on this new system of records notice on or before August 26, 2020.

This new system of records will become applicable upon publication in the **Federal Register** on July 27, 2020. All proposed routine uses in the section of the new system of records notice entitled ''ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES'' will become applicable on August 26, 2020, unless the new system of records notice needs to be changed as a result of public comment. The Department will publish any changes to the system of records or routine uses that result from public comment.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov,* including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the ''Help'' tab.
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about this modified system of records, address them to: Tracy Rimdzius, Institute of Education Sciences, U.S. Department of Education, Potomac Center Plaza, 550 12th Street SW, Room 4114–1, Washington, DC 20202.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Tracy Rimdzius, Institute of Education Sciences, U.S. Department of Education, Potomac Center Plaza, 550 12th Street SW, Room 4114–1, Washington, DC 20202. Telephone: (202) 245–6940. Email: *Tracy.Rimdzius@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you may call the Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The information contained in the system will be used to conduct a national evaluation of the SRCL program's implementation and outcomes and a national evaluation of the implementation and effectiveness of the CLSD program.

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

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

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

Mark Schneider,

Director, Institute of Education Sciences.

For the reasons discussed in the preamble, the Director of the Institute of Education Sciences, U.S. Department of Education (Department), publishes a notice of a new system of records to read as follows:

SYSTEM NAME AND NUMBER:

National Evaluation of the Striving Readers Comprehensive Literacy and Comprehensive Literacy State Development Programs (18–13–45).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

(1) Institute of Education Sciences, U.S. Department of Education, Potomac Center Plaza, 550 12th Street SW, Washington, DC 20202.

(2) American Institutes for Research, 1000 Thomas Jefferson Street NW, Washington, DC 20007(contractor).

(3) National Opinion Research Center at the University of Chicago, 55 East Monroe Street, 30th Floor, Chicago, IL 60603 (subcontractor).

SYSTEM MANAGER(S):

Comprehensive Literacy Program Evaluation contracting officer representative, Institute of Education Sciences, U.S. Department of Education, Potomac Center Plaza, 550 12th Street SW, Room 4114–1, Washington, DC 20202.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The study is authorized under sections 171(b) and 173 of the Education Sciences Reform Act of 2002 (ESRA)(20 U.S.C. 9561(b) and 9563), section 1502(b) of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001, and section 2225 of the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act (20 U.S.C. 6645).

PURPOSE(S) OF THE SYSTEM:

The information contained in the records maintained in this system is used to conduct a national evaluation of the Striving Readers Comprehensive Literacy (SRCL) program and the Comprehensive Literacy State Development (CLSD) program.

The study will address the following central research questions: How do State grantees implement their SRCL/CLSD program grants? How do subgrantees target SRCL/CLSD program awards to schools and early learning programs? What literacy interventions and practices are used by schools and early learning programs in the SRCL and CLSD programs? What are the literacy outcomes for students in SRCL schools and early learning programs? What is the impact of the CLSD program on classroom reading instruction? What is the impact of the CLSD program on student reading outcomes?

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on principals, teachers, and students in the schools and early learning programs that are participating in the evaluations of the SRCL and CLSD programs. The system contains records on approximately 600 school principals,

3,700 teachers, and 3.7 million students (in grades three to eight and one grade in high school) in 413 school districts in the 11 states with SRCL program grants. The system contains records on approximately 130 school principals, 180 teachers, and 1.9 million students (in grades three to eight and one grade in high school) in 200 school districts in the states with CLSD program grants.

CATEGORIES OF RECORDS IN THE SYSTEM:

For teachers, this system includes, but is not limited to, the following information: Full name, contact information, background characteristics, teaching experience and professional development, teaching certification, and descriptions of their reading instruction. For principals, this system includes, but is not limited to, the following information: Full name, contact information, and years of experience. For students, this system includes, but is not limited to, the following information: English learner status, gender, race/ethnicity, grade, eligibility for free/reduced-price lunch, individualized education plan status, and standardized English/Language Arts and Math test scores.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from human resource and student education records maintained by the school districts; surveys of principals and of teachers that are administered by the study team; and, observations of reading instruction conducted by the study team.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. The Department may make these disclosures on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended (Privacy Act), under a computer matching agreement. Any disclosure of individually identifiable information from a record in this system must also comply with the requirements of section 183 of the ESRA (20 U.S.C. 9573), providing for confidentiality standards that apply to all collection, reporting, and publication of data by the Institute of Education Sciences. Any disclosure of personally identifiable information (PII) from student education records that is obtained from schools or school districts must also comply with the requirements of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g; 34 CFR part 99), which protects the privacy of student education records and the PII contained therein.

(1) *Contract Disclosure.* The Department may disclose records to employees of an entity with which the Department contracts when disclosure is necessary for an employee of the entity to perform a function pursuant to the Department's contract with the entity. As part of such a contract, the Department shall require the contractor to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records. Any contractor or subcontractor that either obtains PII contained in student education records on behalf of the Department or to which the Department discloses PII contained in education records pursuant to this routine use shall comply with all applicable FERPA restrictions that apply to such PII, including, but not limited to, on the use, redisclosure, and destruction of such PII.

(2) *Research Disclosure.* The Department may disclose information from this system of records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research that is compatible with the purpose(s) of this system of records. The official may disclose information from this system of records to that researcher solely for the purpose of carrying out such research related to the purpose(s) of this system of records. The researcher must agree to establish and maintain safeguards consistent with section 183(c) of the ESRA (20 U.S.C. 9573(c)) to protect the security and confidentiality of such records disclosed from this system. Researchers to whom the Department discloses PII from student education records pursuant to this routine use shall comply with all applicable FERPA restrictions that apply to such PII, including, but not limited to, on the use, redisclosure, and destruction of such PII.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are maintained in a secure, password-protected electronic system.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system will be indexed and retrieved by a unique number assigned to each individual that will be cross-referenced by the individual's name on a separate list.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The Department shall submit a retention and disposition schedule that covers the records contained in this system to the National Archives and Records Administration (NARA) for review. The records will not be destroyed until such time as NARA approves said schedule.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Security protocols for this system of records meet all required security standards. The contractor and subcontractor will be required to ensure that information identifying individuals is in files physically separated from other research data and electronic files identifying individuals are separated from other electronic research data files. The contractor and subcontractor will maintain security of the complete set of all master data files and documentation. Access to individually identifiable data will be strictly controlled. All information will be kept in locked file cabinets during nonworking hours, and work on hardcopy data will take place in a single room, except for data entry.

Physical security of electronic data also will be maintained. Security features that protect project data will include: Password-protected accounts that authorize users to use the contractor's and subcontractor's systems but to access only specific network directories and network software; user rights and directory and file attributes that limit those who can use particular directories and files and determine how they can use them; and additional security features that the network administrators will establish for projects as needed. The contractor's and subcontractor's employees who ''maintain'' (collect, maintain, use, or disseminate) data in this system must comply with the requirements of the Privacy Act and the confidentiality standards in section 183 of the ESRA (20 U.S.C. 9573).

RECORD ACCESS PROCEDURES:

If you wish to request access to your records, you must contact the system manager at the address listed above under the section entitled ''SYSTEM MANAGER(S).'' Your request must provide necessary particulars of your

full name, address, and telephone number, and any other identifying information requested by the Department while processing the request, to distinguish between individuals with the same name. Your request must meet the requirements of the Department's Privacy Act regulations set forth in 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager at the address listed above under the section entitled ''SYSTEM MANAGER(S).'' Your request must meet the requirements of the Department's Privacy Act regulations set forth in 34 CFR 5b.7.

NOTIFICATION PROCEDURES:

If you wish to inquire whether a record exists regarding you in this system, you must contact the system manager at the address listed above under the section entitled ''SYSTEM MANAGER(S).'' You must provide necessary particulars of your full name, address, and telephone number, and any other identifying information requested by the Department while processing the request, to distinguish between individuals with the same name. Your request must meet the requirements of the Department's Privacy Act regulations set forth in 34 CFR 5b.5, including proof of identity.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2020–16201 Filed 7–24–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC20–82–000.

Applicants: Golden Fields Solar III, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Golden Fields Solar III, LLC.

Filed Date: 7/20/20.

Accession Number: 20200720–5185.

Comments Due: 5 p.m. ET 8/10/20.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20–216–000.

Applicants: Tatanka Ridge Wind, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Tatanka Ridge Wind, LLC.

Filed Date: 7/21/20.

Accession Number: 20200721–5074.

Comments Due: 5 p.m. ET 8/11/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–404–004.

Applicants: Southwestern Public Service Company, Public Service Company of Colorado.

Description: Compliance filing: 2020–07–20 OATT-Att O–SPS–ADIT-Amnd Compliance_ER19–404 to be effective 2/1/2020.

Filed Date: 7/20/20.

Accession Number: 20200720–5129.

Comments Due: 5 p.m. ET 8/10/20.

Docket Numbers: ER20–2014–000.

Applicants: Rattlesnake Flat, LLC.

Description: Second Supplement to June 8, 2020 Rattlesnake Flat, LLC tariff filing.

Filed Date: 7/20/20.

Accession Number: 20200720–5089.

Comments Due: 5 p.m. ET 7/30/20.

Docket Numbers: ER20–2087–000.

Applicants: Gichi Noodin Wind Farm, LLC.

Description: Supplement to June 17–2020 Gichi Noodin Wind Farm, LLC tariff filing.

Filed Date: 7/20/20.

Accession Number: 20200720–5183.

Comments Due: 5 p.m. ET 7/30/20.

Docket Numbers: ER20–2098–000.

Applicants: Titan Solar 1, LLC.

Description: Second Supplement to June 18, 2020 Titan Solar 1, LLC tariff filing.

Filed Date: 7/16/20.

Accession Number: 20200716–5176.

Comments Due: 5 p.m. ET 8/6/20.

Docket Numbers: ER20–2462–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Moon Lake Revised Wheeling Agreement Rev 5 to be effective 9/20/2020.

Filed Date: 7/21/20.

Accession Number: 20200721–5090.

Comments Due: 5 p.m. ET 8/11/20.

Docket Numbers: ER20–2463–000.

Applicants: Alcoa Power Generating Inc.

Description: Tariff Cancellation: Cancellation of Long Sault Division Open Access Transmission Tariff to be effective 9/20/2020.

Filed Date: 7/21/20.

Accession Number: 20200721–5122.

Comments Due: 5 p.m. ET 8/11/20.

Docket Numbers: ER20–2464–000.

Applicants: Alcoa Power Generating Inc.

Description: Tariff Cancellation: Cancellation of Tapoco Division Open Access Transmission Tariff to be effective 9/20/2020.

Filed Date: 7/21/20.

Accession Number: 20200721–5123.

Comments Due: 5 p.m. ET 8/11/20.

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 21, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–16190 Filed 7–24–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file

associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket Nos.	File date	Presenter or requester
Prohibited:		
1. EL20–42–000	7–13–2020	Mass Mailings.[1]
2. EL20–42–000	7–14–2020	Mass Mailings.[2]
3. EL20–42–000	7–14–2020	Mass Mailings.[3]
4. EL19–58–000, EL17–32–000, EL17–36–000	7–15–2020	FERC Staff.[4]
5. EL20–42–000	7–15–2020	Mass Mailings.[5]
6. ER18–1314–006	7–17–2020	Customer First Renewables.
Exempt:		
1. ER20–1926–000	7–15–2020	U.S. Senator John Hoeven.
2. P–14803–000, P–2082–000	7–16–2020	U.S. Representative Doug LaMalfa.
3. CP17–458–000	7–21–2020	U.S. Representative Tom Cole.

[1] Emailed comments of Stephen Schmeiser and 66 other individuals.
[2] Emailed comments of Martha Spencer and 81 other individuals.
[3] Emailed comments of Jean Su on behalf of 450 groups.
[4] Email and memorandum regarding the 4/24/2020 communication with Jay Apt.
[5] Emailed comments of Ed Manning and 170 other individuals.

Dated: July 21, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–16189 Filed 7–24–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–2458–000]

Hunter Solar LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Hunter Solar 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 August 10, 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 21, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–16191 Filed 7–24–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–0482; FRL–10012–48–OAR]

Information Collection Request Number 2265.04; Proposed Information Collection Request; Comment Request; Information Collection Activities Associated With the SmartWay Transport Partnership

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Information Collection Activities Associated with the SmartWay Transport Partnership'' (EPA ICR No. 2265.04, OMB Control No. 2060–0663) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through April 30, 2021. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before September 25, 2020.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2007–0482 online using *www.regulations.gov* (our preferred method), by email to *smartway_transport@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221 T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Erik Herzog, U. S. Environmental Protection Agency, 2000 Traverwood Drive, S–72, Ann Arbor, MI 48105; telephone number: 734–214–4487; Fax: 734–214–4906; email address: *herzog.erik@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** document to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The EPA's Office of Air and Radiation (OAR) developed the SmartWay Transport Partnership (''SmartWay'') under directives outlined in Subtitle D of the Energy Policy Act of 2005 which calls on EPA to assess the energy and air quality impacts of activities within the freight industry. These activities include long-duration truck idling, the development and promotion of strategies for reducing idling, fuel consumption, and negative air quality effects. SmartWay's objectives also are consistent with the Clean Air Act, the Federal Technology Transfer Act and other laws that authorize and support research, training and air pollutant control activities.

SmartWay is open to organizations that own, operate, or contract with fleet operations, including truck, rail, barge, air and multi-modal carriers, logistics companies, and shippers. Organizations that do not operate fleets, but that are working to strengthen the freight industry, such as industry trade associations, state and local transportation agencies and environmental groups, also may join as SmartWay affiliates. All organizations that join SmartWay are asked to provide EPA with information as part of their SmartWay registration to annually benchmark their transportation-related operations and improve the environmental performance of their freight activities.

A company joins SmartWay when it completes and submits a SmartWay Excel-based tool (''reporting tool'') to EPA. The company submits an updated reporting tool annually thereafter. Truck carriers with fewer than 20 trucks may submit their annual updates through the On-Line Truck Tool, rather than the Excel-based version. The data outputs from the submitted tool are used by partners and SmartWay in several ways. First, the data provides confirmation that SmartWay partners are meeting established objectives in their Partnership Agreement. The reporting tool outputs enable EPA to assist SmartWay partners as appropriate, and to update them with environmental performance and technology information that empower them to improve their efficiency. This information also improves EPA's knowledge and understanding of the environmental and energy impacts associated with goods movement, and the effectiveness of both proven and emerging strategies to lessen those impacts.

In addition to requesting annual freight transportation-related data, EPA may ask its SmartWay partners for other kinds of information which could include opinions and test data on the effectiveness of new and emerging technology applications, sales volumes associated with SmartWay-recommended vehicle equipment and technologies, the reach and value of partnering with EPA through the SmartWay Partnership, and awareness of the SmartWay brand. In some instances, EPA might query other freight industry representatives (not just SmartWay partners), including trade and professional associations, nonprofit environmental groups, energy and community organizations, and

universities, and a small sampling of the general public.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action include private and public organizations that join the SmartWay Transport Partnership; freight industry representatives who engage in activities related to the SmartWay Partnership; and representative samplings of consumers in the general public. These entities may be affected by EPA efforts to assess the effectiveness and value of the SmartWay program, awareness of the SmartWay brand, and ideas for developing and improving SmartWay.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 4,770.

Frequency of response: The information collections described in the ICR must be completed in order for an organization to register as or continue its status as a SmartWay partner, to become a SmartWay affiliate, to use the SmartWay logo on an EPA-designated tractor or trailer, or to be considered for a SmartWay Excellence Award.

Total estimated burden: The annual burden for this collection of information that all respondent partners and affiliates incur is estimated to average 12,557 hours with a projected annual aggregate cost of $860,339. The annual burden for this collection of information that federal agency respondents incur is estimated to average 4,688 hours with a projected annual aggregate cost of $170,831.

This ICR estimates that approximately 3,800 respondent partners will incur burden associated with SmartWay in the first year, with a growth of 320 partners per year projected into the future. The estimated average burden time per respondent is 2.65 hours annually. This is an average across all Smart Way partners, regardless of whether they are affiliates, shippers, carriers or logistics companies. The average also includes 150 consumer and industry respondents who spend far less time, providing the SmartWay program with basic information on their awareness of the program. Among respondent partners the burden hours are typically higher for larger companies with complex fleets, than for smaller companies.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Total estimated cost: The total annual cost to all respondent partners is $860339. The total annual cost to federal agency respondents is $170,831.

Changes in estimates: There is a decrease of 667 hours and $49,489 in the total estimated respondent partner burden compared with the ICR currently approved by OMB. This decrease reflects the following adjustments and program changes:

(1) Implementation of a new On-Line Truck Tool for carrier partners with small fleets;

(2) Elimination of the Affiliate Challenge and its associated response burden.

There is also a decrease of 222 hours and $24,090 in the total estimated agency burden currently approved by OMB. This decrease is due to the following:

(1) Implementation of the On-line Truck Tool for small fleets reduces review time for EPA.

(2) Elimination of the Affiliate Challenge and its associated burden.

Dated: July 21, 2020.

Karl Simon,

Director, Transportation and Climate Division, Office of Transportation and Air Quality.

[FR Doc. 2020–16239 Filed 7–24–20; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice: EIB–2020–0004]

Receipt of Request To Increase the Amount of Long-Term General Guarantee on Interest of Secured Notes Issued by the Private Export Funding Corporation (PEFCO)

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public that Export-Import Bank of the United States (''EXIM'') has received a request to increase the amount of the long-term general guarantee on the interest of Secured Notes issued by the Private Export Funding Corporation (PEFCO). Comments received within the comment period specified below will be presented to the EXIM Board of Directors prior to final action on this Transaction.

DATES: Comments must be received on or before August 21, 2020 to be assured of consideration before final decision on the additional guarantee amount.

ADDRESSES: Comments may be submitted through *Regulations.gov* at *WWW.REGULATIONS.GOV.* To submit a comment, enter EIB–2020–004 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any), and EIB–2020–004 on any attached document.

SUPPLEMENTARY INFORMATION:

Reference: AP003048AA

Brief Description of Nature and Purpose of the Facility: This is a general guarantee on the interest of Secured Notes issued by the Private Export Funding Corporation (PEFCO), in accordance with both the Guarantee and Credit Agreement, as Amended, and the Guarantee Agreement between EXIM and PEFCO. The purpose of the guarantee of interest on the Secured Notes is to facilitate private funding from the U.S. capital markets for EXIM-guaranteed export finance transactions.

Total Amount of Guarantees: The exact number is not determinable due to market-determined pricing and uncertainty as to the amount and timing of Secured Notes to be issued; however, it could potentially be in excess of $100 million.

Reasons for the Facility and Methods of Operation: The general guarantee is set up to guarantee interest on PEFCO's issuance of Secured Notes. The principal amount of the Secured Notes is secured by a collateral pool of U.S. government-risk debt and securities, including EXIM-guaranteed loans. The proceeds from the Secured Notes are used to fund additional EXIM-guaranteed loans and provide a liquid secondary market for EXIM-guaranteed loans.

Party Requesting Guarantee: Private Export Funding Corporation (PEFCO)

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which

would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

Joyce B. Stone,

Assistant Corporate Secretary.

[FR Doc. 2020–16097 Filed 7–24–20; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice: EIB–2020–003]

Request To Renew Partnership With Private Export Funding Corporation (PEFCO)

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public that the Export-Import Bank of the United States (EXIM) has received a request to renew its partnership with Private Export Funding Corporation (PEFCO) that is scheduled to expire on December 31, 2020. EXIM is seeking public comment regarding possible benefits or costs of continuing such a relationship. Comments received within the comment period specified below will be presented to the EXIM Board of Directors prior to final action on this Action.

DATES: Comments must be received on or before August 21, 2020 to be assured of consideration before final consideration on renewal of the agreement by the Board of Directors of EXIM.

ADDRESSES: Comments may be submitted through *Regulations.gov* at *WWW.REGULATIONS.GOV*. To submit a comment, enter EIB–2020–003 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2020–003 on any attached document.

SUPPLEMENTARY INFORMATION:

Party's Relationship with Exim: The Private Export Funding Corporation (PEFCO) was created in 1970 as a public-private partnership between the U.S. Federal Government and private companies involved in financing or producing U.S. exports. PEFCO entered into an official partnership with EXIM in 1971, which was renewed in 1994 through December 31, 2020. PEFCO is a *funding* source for EXIM guarantees or insurance provided to commercial financing entities that originate and structure export financing transactions. It was created to ensure there was always a private-based alternative to EXIM direct loans and to facilitate the liquidity of EXIM-guaranteed and -insured transactions. PEFCO accomplishes these purposes by intermediating between the efficiency and immense scale of the U.S. capital markets and the day-to-day funding needs of export financing for cases ranging from several hundred thousand dollars to several hundred million dollars. Over the course of its 50-year existence, PEFCO has funded more than $38 billion in EXIM-guaranteed and -insured export transactions brought to it by commercial entities. Since the Global Financial Crisis and the emergence of the Basel III regulatory environment, PEFCO's primary role has been to act as a source of liquidity for the commercial market. This crowds the private sector into official export finance and maximizes the competitiveness of EXIM-guaranteed/insured transactions. The Export-Import Bank is authorized to issue this notice pursuant to the Export-Import Bank Act of 1945, as amended, 12 U.S.C. 635 *et seq.*

Information on Decision: Information on the final decision for this matter will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/*.

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

Joyce B. Stone,

Assistant Corporate Secretary.

[FR Doc. 2020–16096 Filed 7–24–20; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0798; FRS 16943]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written comments should be submitted on or before September 25, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated

collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0798.

Title: FCC Authorization for Radio Service Authorization; Wireless Telecommunications Bureau; Public Safety and Homeland Security Bureau.

Form Number: FCC Form 601.

Type of Review: Revision of a currently approved collection.

Respondents: Individual and households, Business or other for-profit entities, state, local, or tribal government, and not for profit institutions.

Number of Respondents: 255,552 respondents; 255,552 responses.

Estimated Time per Response: 0.5 to 1.25 hours.

Frequency of Response: Recordkeeping requirement; third party disclosure requirement, on occasion reporting requirement and periodic reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 152, 154, 154(i), 155(c), 157, 201, 202, 208, 214, 301, 302a, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 331, 332, 333, 336, 534, 535, and 554 of the Communications Act of 1934.

Total Annual Burden: 224,008 hours.

Total Annual Cost: $71,934,000.

Privacy Impact Assessment: Yes.

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information.

Needs and Uses: FCC Form 601 is a consolidated, multi-part application form that is used for market-based and site-based licensing for wireless telecommunications services, including public safety licenses, which are filed through the Commission's Universal Licensing System (ULS). FCC Form 601 is composed of a main form that contains administrative information and a series of schedules used for filing technical and other information. This form is used to apply for a new license, to amend or withdraw a pending application, to modify or renew an existing license, cancel a license, request a duplicate license, submit requested notifications, request an extension of time to satisfy construction requirements, or request an administrative update to an existing license (such as mailing address change), request a Special Temporary Authority or Developmental License. Respondents are required to submit FCC Form 601 electronically, except in certain services specifically designated by the Commission.

The data on FCC Form 601 includes the FCC Registration Number (FRN), which serves a ''common link'' for all filings an entity has with the FCC. The Debt Collection Improvement Act of 1996 requires entities filing with the Commission to use an FRN. Records may include information about individuals or households, *e.g.,* personally identifiable information or PII, and the use(s) and disclosure of this information are covered by the requirements of a system of records notice of 'SORN,' FCC–WTB–1, ''Wireless Services Licensing Records.'' There are no additional impacts under the Privacy Act.

On April 23, 2020, the Commission Adopted a Report and Order and Further Notice of Proposed Rulemaking in ET Docket 18–295, FCC 20–51, that requires temporary fixed microwave licensees to register temporary fixed links in the ULS database in order to receive protection from unlicensed devices operating in the 6GHz band, a summary of which was published at 85 FR 31390 (May 26, 2020). Automated frequency coordination (AFC) administrators will use this information to determine where unlicensed devices can operate. Temporary fixed licensees were not previously required to file applications with the Commission when they commenced operation, so this is a new filing requirement. We estimate that 70 respondents, will file 1,050 responses per year (15 per licensee), with an estimated time burden of 525 hours (30 minutes per filing). In addition to creating this new filing requirement, two new data fields will be required to describe when the temporary fixed links will be operational, so that the AFCs will know when to protect the temporary fixed links. For this purpose a ''start date'' and ''end date'' will be added to the Form 601, Schedule I.

On May 13, 2020, the FCC adopted a *Report and Order,* FCC 20–67, in WT Docket No. 17–200, modified by an erratum released July 1, 2020, that establishes rules for broadband license operations in the 897.5–900.5/936.5–939.5 MHz segment of the 900 MHz band (896–901/935–940 MHz), a summary of which was published at 85 FR 43124 (July 16, 2020). The Commission seeks approval from OMB for the information collection requirements contained in the *Report and Order,* FCC 20–67. The requirements in §§ 27.1503(b)(1), (2), and (3) and (c)(1) and 27.1505(a) and (b) constitute revised information collections pursuant to the PRA. For the first three years of this collection, we estimate that 30 respondents will file 60 responses per year (two per licensee), with an estimate time burden of 30 hours (30 minutes per filing). We estimate that 30 respondents will file 60 responses (once at the six-year mark, and once at the 12-year mark of the 900 MHz broadband license term), with an estimate time burden of 30 hours in each of those two years (1 hour per filing).

Section 27.1503(b)(1) requires an applicant to file an application for a 900 MHz broadband license in accordance with part 1, subpart F, of the Commission's rules. The 900 MHz broadband service is a new service governed under part 27 of the Commission's rules. The Commission requests OMB approval to revise FCC Form 601 to add a new radio service code, a new Schedule N for the 900 MHz broadband service, and two new attachment types for the Eligibility Certification and Transition Plan.

Schedule N would be a new supplementary schedule for 900 MHz broadband service applicants to apply for the required license authorization in conjunction with the FCC 601 Main Form. In Schedule N, 900 MHz broadband service applicants would identify the market(s) to which the filing pertains and certifications that the applicant has attached an Eligibility Certification and Transition Plan, that the applicant will return licensed 900 MHz spectrum to the Commission, and that it will remit an anti-windfall payment if applicable.

Section 27.1503(b)(2) requires an applicant to file an Eligibility Certification as part of its application for a 900 MHz broadband license. In its Eligibility Certification, an applicant must list the licenses the applicant holds in the 900 MHz band to demonstrate that it holds licenses for more than 50% of the total licensed 900 MHz spectrum for the county, including credit for spectrum included in an application to acquire or relocate any covered incumbents filed on or after March 14, 2019. The Eligibility Certification must also include a statement that the applicant's Transition Plan details how it holds spectrum in the broadband segment and/or has reached an agreement to clear through acquisition or relocation, or demonstrate how it will provide interference protection to, covered incumbent licensees collectively holding licenses in the broadband segment for at least 90% of the site-channels in the county, and within 70 miles of the county boundary and geographically licensed channels where the license area

completely or partially overlaps the county.

Section 27.1503(b)(3) requires an applicant to file a Transition Plan as part of its application for a 900 MHz broadband license. In its Transition Plan, an applicant must demonstrate one or more of the following for at least 90% of the site-channels in the county and within 70 miles of the county boundary, and geographically licensed channels where the license area completely or partially overlaps the county: (1) Agreement by covered incumbents to relocate form the broadband segment; (2) protection of site-based covered incumbents through compliance with minimum spacing criteria; (3) protection of site-based covered incumbents through new or existing letters of concurrence agreeing to lesser base station separations; (4) protection of geographically-based covered incumbents through private contractual agreements; and/or (5) evidence that it holds licenses for the site channels in the county and within 70 miles of the county boundary and geographically licensed channels where the license area completely or partially overlaps the county. The Transition Plan must describe in detail: (1) Descriptions of the agreements reached with covered incumbents to relocate and the applications that the parties to the agreements will file for spectrum in the narrowband segment in order to relocate or repack licensees; (2) descriptions of how the applicant will provide interference protection to, and/or acquire or relocate from the broadband segment, covered incumbents collectively holding licenses for at least 90% of the site-channels in the county and within 70 miles of the county boundary, and geographically licensed channels where the license area completely or partially overlaps the county, and/or evidence that it holds licenses for the site-channels and/or geographically licensed channels; (3) any rule waivers or other actions necessary to implement an agreement with a covered incumbent; and (4) such additional information as may be required. The Commission requires the applicant to include in the Transition Plan a certification from a frequency coordinator that the Transition Plan can be implemented consistent with the Commission's rules. The Commission allows an applicant seeking to transition multiple counties simultaneously to file a single Transition Plan that covers all of its county-based applications.

Section 27.1503(c)(1) requires an applicant to cancel its 900 MHz Specialized Mobile Radio and Business/Industrial/Land Transportation licenses, up to six megahertz, conditioned upon Commission grant of its license. An applicant would file FCC Form 601 to cancel existing licenses, but this information collection does not involve a revision of FCC Form 601.

Section 27.1505 requires a 900 MHz broadband licensee to meet performance requirements. Section 27.1505(a) requires an applicant to file a construction notification in accordance with § 1.946(d) of the Commission's rules. An applicant would file FCC Form 601 to file the construction notification, and this information collection would encompass adding a new radio service code for the 900 MHz broadband service. Pursuant to § 27.1505(b), licensees can satisfy performance requirement through population or geographic coverage. Under the population metric, a 900 MHz broadband licensee would be required to provide reliable signal coverage and offer broadband service to at least 45% of the population in its license area within six years of license grant and to at least 80% of the population in its license area within twelve years of license grant. Under the geographic coverage metric, a 900 MHz broadband licensee would be required to provide reliable signal coverage and offer broadband service to at least 25% of the geographic license area within six years of license grant and to at least 50% of the geographic license area within twelve years of license grant. To meet the broadband service obligation, the Commission expects licensees to deploy technologies that make intensive use of the entire 3/3 megahertz band segment and yield high uplink and downlink data rates and minimal latency sufficient to provide for real-time, two-way communications. The 900 MHz broadband licensees would demonstrate its compliance with § 27.1505(b) by filing an attachment to their FCC Form 601 construction notification filings.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–16202 Filed 7–24–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0411; FRS 16945]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before September 25, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0411.

Title: Procedures for Formal Complaints.

Form Number: FCC Form 485.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit entities, not-for-profit institutions, federal government, and state, local, or tribal governments.

Number of Respondents and Responses: 5 respondents; 13 responses.

Estimated Time per Response: 1—68 hours.

Frequency of Response: Recordkeeping requirement, on-occasion reporting requirement, and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 154(j), 206, 207, 208, 209, 301, 303, 304, 309, 316, 332, and 1302.

Total Annual Burden: 366 hours.

Total Annual Cost: $ 97,175.

Nature and Extent of Confidentiality: 47 CFR 1.731 provides for confidential treatment of materials disclosed or exchanged during the course of formal complaint proceedings when the disclosing party has identified the materials as proprietary or confidential. In the rare case in which a producing party believes that section 1.731 will not provide adequate protection for its assorted confidential material, it may request either that the opposing party consent to greater protection, or that the staff supervising the proceeding order greater protection.

Privacy Act Impact Assessment: Yes. The information collection requirements may affect individuals or households. As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a, and OMB regulations, M–03–22 (September 22, 2003), the FCC has completed both a system of records, FCC/EB–5, ''Enforcement Bureau Activity Tracking System,'' and a Privacy Impact Assessment (PIA), to cover the collection, maintenance, use, and disposal of all personally identifiable information (PII) that may be submitted as part of a formal complaint filed against a common carrier:

(a) The system of records notice (SORN), FCC/EB–5, ''Enforcement Bureau Activity Tracking System (EBATS),'' was published in the **Federal Register** on December 14, 2010 (75 FR 77872) and became effective on January 24, 2011. It is posted on the FCC's Privacy Act web page at: *http://www.fcc.gov/omd/privacyact/records-systems.html.*

(b) The initial Privacy Impact Assessment (PIA) was completed on May 22, 2009. Subsequent related approvals include: (1) FCC/EB–5, ''EBATS,'' on January 24, 2011: and, (2) September 21, 2017 was updated.

Needs and Uses: Sections 206–209 of the Communications Act of 1934, as amended (the ''Act''), provide the statutory framework for adjudicating formal complaints against common carriers. To resolve complaints between providers regarding compliance with data roaming obligations, Commission Rule 20.12(e) adopts by reference the procedures already in place for resolving Section 208 formal complaints against common carriers, except that the remedy of damages, is not available for complaints against commercial mobile data service providers.

Section 208(a) authorizes complaints by any person ''complaining of anything done or omitted to be done by any common carrier'' subject to the provisions of the Act.

Section 208(a) states that if a carrier does not satisfy a complaint or there appears to be any reasonable ground for investigating the complaint, the Commission shall ''investigate the matters complained of in such manner and by such means as it shall deem proper.'' Certain categories of complaints are subject to a statutory deadline for resolution. *See, e.g.,* 47 U.S.C. 208(b)(1) (imposing a five-month deadline for complaints challenging the ''lawfulness of a charge, classification, regulation, or practice''); 47 U.S.C. 271 (d)(6) (imposing a 90-day deadline for complaints alleging that a Bell Operating Company has ceased to meet conditions imposed in connection with approval to provide in-region interLATA services).

Formal complaint proceedings before the Commission are similar to civil litigation in federal district court. In fact, under section 207 of the Act, a party claiming to be damaged by a common carrier may file its complaint with the Commission or in any district court of the United States, ''but such person shall not have the right to pursue both such remedies'' (47 U.S.C. 207). The Commission has promulgated rules (Formal Complaint Rules) to govern its formal complaint proceedings that are similar in many respects to the Federal Rules of Civil Procedure. *See* 47 CFR 1.720–1.736. These rules require the submission of information from the parties necessary to create a record on which the Commission can decide complex legal and factual issues. As described in section 1.720 of the rules, the Commission resolves formal complaint proceedings on a written record consisting of a complaint, answer or response, and joint statement of stipulated facts, disputed facts and key legal issues, along with all associated affidavits, exhibits and other attachments.

This collection of information includes the process for electronically submitting a formal complaint against a common carrier. The Commission uses this information to determine the sufficiency of complaints and to resolve the merits of disputes between the parties. The Commission bases its orders in formal complaint proceedings upon evidence and argument produced by the parties in accordance with the Formal Complaint Rules. If the information were not collected, the Commission would not be able to resolve common carrier-related complaint proceedings, as required by section 208 of the Act.

In addition, the Commission has adopted most of this formal complaint process to govern data roaming complaints. Specifically, the Commission has extended, as applicable, the procedural rules in the Commission's Part I, Subpart E rules, 47 CFR 1.716–1.718, 1.720, 1.721, and 1.723–1.735, to disputes arising out of the data roaming rule contained in 47 CFR 20.12(e). Therefore, in addition to being necessary to resolve common carrier-related complaint proceedings, this collection of information is also necessary to resolve data roaming-related complaint proceedings.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–16204 Filed 7–24–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX; FRS 16944]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of

information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before September 25, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–XXXX.

Title: E911 Compliance for Fixed Telephony and Multi-line Telephone Systems.

Form Number: N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,275,636 respondents; 38,048,948 responses.

Estimated Time per Response: 0.016 hours (one minute).

Frequency of Response: One-time, on occasion, third party disclosure requirement, and recordkeeping requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 151–154, 152(a), 155(c), 157, 160, 201, 202, 208, 210, 214, 218, 219, 222, 225, 251(e), 255, 301, 302, 303, 307, 308, 309, 310, 316, 319, 332, 403, 405, 605, 610, 615, 615 note, 615a, 615b, 615c, 615a-1, 616, 620, 621, 623, 623 note, 721, and 1471.

Total Annual Burden: 634,610 hours.

Total Annual Cost: $1,911,540.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The Commission is obligated by statute to promote ''safety of life and property'' and to ''encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure'' for public safety. Congress has established 911 as the national emergency number to enable all citizens to reach emergency services directly and efficiently, irrespective of whether a citizen uses wireline or wireless technology when calling for help by dialing 911. Efforts by federal, state and local government, along with the significant efforts of wireline and wireless service providers, have resulted in the nearly ubiquitous deployment of this life-saving service.

Section 506 of RAY BAUM'S Act requires the Commission to ''consider adopting rules to ensure that the dispatchable location is conveyed with a 9–1–1 call, regardless of the technological platform used and including with calls from multi-line telephone system.'' RAY BAUM'S Act also states that, ''[i]n conducting the proceeding . . . the Commission may consider information and conclusions from other Commission proceedings regarding the accuracy of the dispatchable location for a 9–1–1 call . . . .'' RAY BAUM'S Act defines a ''9–1–1 call'' as a voice call that is placed, or a message that is sent by other means of communication, to a Public Safety Answering Point (PSAP) for the purpose of requesting emergency services.

As part of implementing Section 506 of RAY BAUM'S Act, on August 1, 2019, the Commission adopted a *Report and Order* (*2019 Order*), set forth rules requiring Fixed Telephony providers and MLTS providers to ensure that dispatchable location is conveyed with 911 calls.

The Commission's *2019 Order* adopted §§ 9.8(a) and 9.16(b)(3)(i), (ii), and (iii) to facilitate the provision of automated dispatchable location. For Fixed Telephony and in fixed Multi-line Telephone Systems (MLTS) environments, respective providers must provide automated dispatchable location with 911 calls. For on-premises, non-fixed devices associated with an MLTS, the MLTS operator or manager must provide automated dispatchable location to the appropriate PSAP when technically feasible; otherwise they must provide either dispatchable location based on end-user manual update, or alternative location information. For off-premises MLTS calls to 911, the MLTS operator or manager must provide (1) dispatchable location, if technically feasible, or, otherwise, either 2) manually-updated dispatchable location, or (3) enhanced location information, which may be coordinate-based, consisting of the best available location that can be obtained from any available technology or combination of technologies at reasonable cost. The requirements adopted in the *2019 Order* account for variance in the feasibility of providing dispatchable location for non-fixed MLTS 911 calls, and the means available to provide it. The information collection requirements associated with these rules will ensure that Fixed Telephony and MLTS providers have the means to provide 91l callers' locations to PSAPs, thus reducing response times for emergency services.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–16205 Filed 7–24–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX; FRS 16939]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before August 24, 2020.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control No.: 3060–XXXX.

Title: 3.7 GHz Band Relocation Payment Clearinghouse; 3.7 GHz Band Relocation Coordinator; 3.7 GHz Band Space Station Operators.

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 3,007 respondents and 9,362 responses.

Estimated Time per Response: 0.5 hours–600 hours.

Frequency of Response: Recordkeeping requirement; on occasion, weekly, monthly, quarterly, semi-annual, and annual reporting requirements; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in sections 1, 2, 4(i), 4(j), 5(c), 201, 302, 303, 304, 307(e), 309, and 316 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 155(c), 201, 302, 303, 304, 307(e), 309, and 316.

Total Annual Burden: 77,754 hours.

Annual Cost Burden: $10,705,353.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The information collected under this collection will be made publicly available. However, to the extent information submitted pursuant to this information collection is determined to be confidential, it will be protected by the Commission. If a respondent seeks to have information collected pursuant to this information collection withheld from public inspection, the respondent may request confidential treatment *29718pursuant to section 0.459 of the Commission's rules for such information.

Needs and Uses: On February 28, 2020, in furtherance of the goal of releasing more mid-band spectrum into the market to support and enabling next-generation wireless networks, the Commission adopted a Report and Order, FCC 20–22, (3.7 GHz Report and Order), in which it reformed the use of the 3.7–4.2 GHz band, also known as the C-band. Currently, the 3.7–4.2 GHz band is allocated in the United States exclusively for non-Federal use on a primary basis for Fixed Satellite Service (FSS) and Fixed Service (FS). Domestically, space station operators use the 3.7–4.2 GHz band to provide downlink signals of various bandwidths to licensed transmit-receive, registered receive-only, and unregistered receive-only earth stations throughout the United States.

The 3.7 GHz Report and Order calls for the relocation of existing FSS operations in the band into the upper 200 megahertz of the band (4.0–4.2 GHz) and relocation of existing FS operations into other bands, making the lower 280 megahertz (3.7–3.98 GHz) available for flexible use throughout the contiguous United States through a Commission-administered public auction of overlay licenses that is scheduled to occur later this year. The Commission adopted a robust transition schedule to achieve a prompt relocation of FSS and FS operations so that a significant amount of spectrum could be made available quickly for next-generation wireless deployments. At the same time, the Commission sought to ensure the effective accommodation of relocated incumbent users. To facilitate an efficient transition, the Commission adopted a process for fully reimbursing existing operators for the costs of this relocation and for offering accelerated relocation payments to encourage a timely transition. Flexible-use licensees will be required to pay any accelerated relocation payments, if elected by eligible space station operators, and reimburse incumbent operators for their actual relocation costs associated with clearing the lower 300 megahertz of the band while ensuring continued operations for their customers. The 3.7 GHZ Report and Order establishes a Relocation Payment Clearinghouse to oversee the cost-related aspects of the transition and establishes a Relocation Coordinator to establish a timeline and take actions necessary to migrate and filter incumbent earth stations to ensure continued, uninterrupted service during and following the transition.

FCC staff will use this data to ensure that 3.7–4.2 GHz band stakeholders adopt practices and standards in their operations to ensure an effective, efficient, and streamlined transition. Status reports and other information required in this collection will be used to ensure that the process of clearing the lower portion of the band is efficient and timely, so that the spectrum can be auctioned for flexible-use service licenses and deployed for next-

generation wireless services, including 5G, as quickly as possible. The collection is also necessary for the Commission to satisfy its oversight responsibilities and/or agency specific/government-wide reporting obligations.

The Commission concluded in the 3.7 GHz Report and Order that a Relocation Payment Clearinghouse and Relocation Coordinator are critical to ensuring that the reconfiguration is administered in a fair, transparent manner and that the transition occurs as expeditiously as possible. To accomplish these goals most effectively, the Commission is seeking approval for a new information collection to collect information from the Relocation Payment Clearinghouse, the Relocation Coordinator, and incumbent space station operators and allow the Relocation Payment Clearinghouse and Relocation Coordinator to collection information to ensure that the band is transitioned effectively.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–16206 Filed 7–24–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0849; FRS 16940]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before August 26, 2020.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–0849.

Title: Commercial Availability of Navigation Devices.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 962 respondents; 65,252 responses.

Estimated Time per Response: 0.00278 hours–40 hours.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement; On occasion reporting requirement; Annual reporting requirement; Semi-annual reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority is contained in Sections 4(i), 303(r) and 629 of the Communications Act of 1934, as amended.

Total Annual Burden: 15,921 hours.

Total Annual Cost: $2,990.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The information collection requirements contained in the collection are as follows: 47 CFR 15.123(c)(3) states subsequent to the testing of its initial unidirectional digital cable product model, a manufacturer or importer is not required to have other models of unidirectional digital cable products tested at a qualified test facility for compliance with the procedures of Uni-Dir-PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma'' (incorporated by reference, see § 15.38) unless the first model tested was not a television, in which event the first television shall be tested as provided in § 15.123(c)(1). The manufacturer or importer shall ensure that all subsequent models of unidirectional digital cable products comply with the procedures in the Uni-Dir-PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma'' (incorporated by reference, see § 15.38) and all other applicable rules and standards. The manufacturer or importer shall maintain records indicating such compliance in

accordance with the verification procedure requirements in part 2, subpart J of this chapter. The manufacturer or importer shall further submit documentation verifying compliance with the procedures in the Uni-Dir-PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma'' (incorporated by reference, see § 15.38) to the testing laboratory representing cable television system operators serving a majority of the cable television subscribers in the United States.

47 CFR 15.123(c)(5)(iii) states subsequent to the successful testing of its initial M–UDCP, a manufacturer or importer is not required to have other M–UDCP models tested at a qualified test facility for compliance with M-Host UNI–DIR–PICS–IOI–061101 (incorporated by reference, see § 15.38) unless the first model tested was not a television, in which event the first television shall be tested as provided in § 15.123(c)(5)(i). The manufacturer or importer shall ensure that all subsequent models of M–UDCPs comply with M-Host UNI–DIR–PICS–IOI–061101 (incorporated by reference, see § 15.38) and all other applicable rules and standards. The manufacturer or importer shall maintain records indicating such compliance in accordance with the verification procedure requirements in part 2, subpart J of this chapter. For each M–UDCP model, the manufacturer or importer shall further submit documentation verifying compliance with M-Host UNI–DIR–PICS–IOI–061101 to the testing laboratory representing cable television system operators serving a majority of the cable television subscribers in the United States.

47 CFR 76.1203 provides that a multichannel video programming distributor may restrict the attachment or use of navigation devices with its system in those circumstances where electronic or physical harm would be caused by the attachment or operation of such devices or such devices that assist or are intended or designed to assist in the unauthorized receipt of service. Such restrictions may be accomplished by publishing and providing to subscribers standards and descriptions of devices that may not be used with or attached to its system. Such standards shall foreclose the attachment or use only of such devices as raise reasonable and legitimate concerns of electronic or physical harm or theft of service.

47 CFR 76.1205(a) states that technical information concerning interface parameters which are needed to permit navigation devices to operate with multichannel video programming systems shall be provided by the system operator upon request.

47 CFR 76.1205(b)(1) states a multichannel video programming provider that is subject to the requirements of Section 76.1204(a)(1) must provide the means to allow subscribers to self-install the CableCARD in a CableCARD-reliant device purchased at retail and inform a subscriber of this option when the subscriber requests a CableCARD. This requirement shall be effective August 1, 2011, if the MVPD allows its subscribers to self-install any cable modems or operator-leased set-top boxes and November 1, 2011 if the MVPD does not allow its subscribers to self-install any cable modems or operator-leased set-top boxes.

47 CFR 76.1205(b)(1)(A) states that this requirement shall not apply to cases in which neither the manufacturer nor the vendor of the CableCARD-reliant device furnishes to purchasers appropriate instructions for self-installation of a CableCARD, and a manned toll-free telephone number to answer consumer questions regarding CableCARD installation but only for so long as such instructions are not furnished and the call center is not offered.

The requirements contained in Section 76.1205 are intended to ensure that consumers are able to install CableCARDs in the devices they purchase because we have determined this is essential to a functioning retail market.

47 CFR 76.1205(b)(2) states effective August 1, 2011, provide multi-stream CableCARDs to subscribers, unless the subscriber requests a single-stream CableCARD. This requirement will ensure that consumers have access to CableCARDs that are compatible with their retail devices, and can request such devices from their cable operators.

47 CFR 76.1205(b)(5) requires to separately disclose to consumers in a conspicuous manner with written information provided to customers in accordance with Section 76.1602, with written or oral information at consumer request, and on websites or billing inserts. This requirement is intended to ensure that consumers understand that retail options are available and that cable operators are not subsidizing their own devices with service fees in violation of Section 629 of the Act.

47 CFR 76.1207 states that the Commission may waive a regulation related to Subpart P (''Competitive Availability of Navigation Devices'') for a limited time, upon an appropriate showing by a provider of multichannel video programming and other services offered over multichannel video programming systems, or an equipment provider that such a waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. Such waiver requests are to be made pursuant to 47 CFR 76.7.

47 CFR 76.1208 states that any interested party may file a petition to the Commission for a determination to provide for a sunset of the navigation devices regulations on the basis that (1) the market for multichannel video distributors is fully competitive; (2) the market for converter boxes, and interactive communications equipment, used in conjunction with that service is fully competitive; and (3) elimination of the regulations would promote competition and the public interest.

47 CFR 15.118(a) and 47 CFR 15.19(d) (label and information disclosure)—The U.S. Bureau of the Census reports that, at the end of 2002, there were 571 U.S. establishments that manufacture audio and visual equipment. These manufacturers already have in place mechanisms for labeling equipment and including consumer disclosures in the form of owners' manuals and brochures in equipment packaging. The Commission estimate that manufacturers who voluntarily decide to label their equipment will need no more than 5 hours to develop a label or to develop wording for a consumer disclosure for owners' manuals/brochures to be included with the device. Once developed, we do not anticipate any ongoing burden associated with the revision/modification of the label, if used, or the disclosure.

Status Reports—Periodic reports are required from large cable multiple system operators detailing CableCARD deployment/support for navigation devices. (This requirement is specified in FCC 05–76, CS Docket No. 97–80).

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–16199 Filed 7–24–20; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

[Notice MV–2020–02; Docket No. 2020–0002; Sequence No. 27]

Notice of GSA Live Webinar regarding GSA's Implementation of Section 889 of the FY 2019 National Defense Authorization Act (NDAA); Correction

AGENCY: Office of Governmentwide Policy (OGP), General Services Administration (GSA).

ACTION: Notice; correction.

SUMMARY: On July 22, 2020, GSA published a notice regarding the hosting of a live and recorded virtual webinar on August 12, 2020 at 1:00 p.m. Eastern Standard Time (EST). This notice is to list the correct website for the meeting registration.

FOR FURTHER INFORMATION CONTACT: Patricia Richardson at *patricia.m.richardson@gsa.gov* or Maria Swaby at 202–208–0291.

SUPPLEMENTARY INFORMATION:

Correction

In FR Doc. 2020–15846, published on July 22, 2020 at 85 FR 44302, make the following correction:

On page 44302, third column, in the **ADDRESSES** section, remove ''HERE'' and add ''*https://gsa.zoomgov.com/webinar/register/WN_hQ6tHTRDR-mMNnRRxJy22Q*'' in its place.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2020–16242 Filed 7–24–20; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–116]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by September 28, 2020.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number_____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html*

2. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–116 Clinical Laboratory Improvement Amendments (CLIA) Application Form and Supporting Regulations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* Clinical Laboratory Improvement Amendments (CLIA) Application Form and Supporting Regulations; *Use:* Section 353 (b) of the Public Health Service Act specifies that the laboratory must submit an application in such form and manner as the Secretary shall prescribe that describes the characteristics of the laboratory and examinations and procedures performed by the laboratory. The application must be completed by entities performing laboratory's testing specimens for diagnostic or treatment purposes. This information is vital to the certification process. In this revision, the majority of changes were minor changes to the form and accompanying instructions to facilitate the completion and data entry of the form. We anticipate that the changes will not increase the time to complete the form. *Form Number:* CMS–116 (OMB control number: 0938–0581); *Frequency:* Biennially and Occasionally; *Affected Public:* Private Sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 52,140; *Total Annual Responses:* 52,140; *Total Annual Hours:* 52,140. (For policy questions regarding this collection contact Kathleen Todd at 410–786–3385.)

Dated: July 22, 2020.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2020–16243 Filed 7–24–20; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Application Requirements for the Low Income Home Energy Assistance Program (LIHEAP) Model Plan Application (OMB #0970–0075)

AGENCY: Office of Community Services, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Office of Community Services (OCS), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is requesting a 3-year extension of the form OCS–0024: Low Income Home Energy Assistance Program (LIHEAP) Model Plan Application (OMB #0970–0075, expiration 9/30/2020). There are no changes requested to the form.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: States, including the District of Columbia, tribes, tribal organizations, and U.S. territories applying for LIHEAP block grant funds must, prior to receiving federal funds, submit an annual application (Model Plan, ACF–122) that meets the LIHEAP statutory and regulatory requirements. In addition to the Model Plan, grantees are also required to complete the Mandatory Grant Application, SF–424—Mandatory, which is included as the first section of the Model Plan.

The LIHEAP Model Plan is an electronic form and is submitted to OCS/ACF through the On-Line Data Collection (OLDC) system within GrantSolutions, which is currently being used by all LIHEAP grantees to submit other required LIHEAP reporting forms. In order to reduce the reporting burden, all data entries from each grantee's prior year's submission of the Model Plan in OLDC are saved and re-populated into the form for the following fiscal year's application.

Respondents: States, the District of Columbia, U.S. territories, and tribal governments.

ANNUAL BURDEN ESTIMATES

Instrument	Total annual number of respondents	Total annual number of responses per respondent	Average burden hours per response	Total annual burden hours
LIHEAP Detailed Model Plan	210	1	.50	105

Estimated Total Annual Burden Hours: 105.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication. (Authority: 42 U.S.C. 8621)

John M. Sweet Jr.,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–16197 Filed 7–24–20; 8:45 am]

BILLING CODE 4184–80–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Emergency Awards: Rapid Investigation of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV–2) and Coronavirus Disease 2019 (COVID–19) (R21/R01 Clinical Trial Not Allowed).

Date: August 13, 2020.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F52, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Margaret A. Morris Fears, Ph.D., Scientific Review Officer, Scientific Review Program, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F52, Rockville, MD 20852, *maggie.morrisfears@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 21, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–16181 Filed 7–24–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Neurological Disorders and Stroke Council, September 9, 2020, 12:30 p.m. to September 10, 2020, 01:00 p.m., National Institutes of Health, Neuroscience Center, Bethesda, MD 20892, which was published in the **Federal Register** on October 18, 2019, 84FR55974.

The meeting notice is amended to change the meeting format from in person to video assisted meeting and to change the meeting times each day. The new meeting times are Wednesday, September 9, 2020, from 1 p.m. to 5 p.m. (open session) and Thursday, September 10, 2020, from 1 p.m. to 5 p.m. (closed session). The meeting is partially Closed to the public.

Visit NINDS homepage for more information: *https://www.ninds.nih.gov/News-Events/Events-Proceedings/Events/National-Advisory-Council-NANDSC-Meeting-September-2020.*

Dated: July 21, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–16184 Filed 7–24–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Clinical Trial Implementation Cooperative Agreement (U01), and Clinical Trial Planning Grant (R34).

Date: August 25, 2020.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G33 Rockville, MD 20892, (Telephone Conference Call).

Contact Person: David C Chang, Ph.D. Scientific Review Officer Scientific Review Program Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G33 Rockville, MD 20852, (301) 594–4218, *changdac@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 21, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–16180 Filed 7–24–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke, November 22, 2020, 06:00 p.m. to November 24, 2020, 12:00 p.m., National Institutes of Health, Bethesda, MD 20814, which was published in the **Federal Register** on December 18, 2019, 84FR69383.

This notice is being amended to announce that the meeting is cancelled. The meeting is closed to the public.

Dated: July 21, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–16182 Filed 7–24–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Emergency Awards: Rapid Investigation of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV–2) and Coronavirus Disease 2019 (COVID–19)

Date: August 21, 2020.

Time: 10:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G22A Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Inka I. Sastalla, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G22A Rockville, MD 20852, 301–761–6431, *inka.sastalla@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 21, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–16183 Filed 7–24–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2020–0320]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0078

AGENCY: Coast Guard, Homeland Security (DHS).

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0078, Credentialing and Manning Requirements for Officers of Towing Vessels; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before September 25, 2020.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2020–0320] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. Consistent with the requirements of Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, and Executive Order 13777, Enforcing the Regulatory Reform Agenda, the Coast Guard is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2020–0320], and must be received by September 25, 2020.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Credentialing and Manning Requirements for Officers of Towing Vessels.

OMB Control Number: 1625–0078.

Summary: Credentialing and manning requirements ensure that towing vessels operating on the navigable waters of the U.S. are under the control of credentialed officers who meet certain qualification and training standards.

Need: Title 46 Code of Federal Regulations parts 10 and 11 prescribe regulations for the credentialing of maritime personnel. This information collection is necessary to ensure that a mariner's training information is available to assist in determining his or her overall qualifications to hold certain credentials.

Forms: None.

Respondents: Owners and operators of towing vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 18,635 hours to 24,152 a year due to an estimated increase in the annual number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: July 21, 2020.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2020–16134 Filed 7–24–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[201A2100DD/AAKC001030/A0A501010.999900 253G; OMB Control Number 1076–0176]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; IDEIA Part B and C Child Count

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 26, 2020.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to Ms. Sue Bement, Office of Sovereignty in Indian Education, 2001 Killebrew Drive—Suite 122, Bloomington, Minnesota 55425; or by email to *sue.bement@bie.edu.* Please reference OMB Control Number 1076–0176 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Ms. Sue Bement by email at *sue.bement@bie.edu* or by telephone at (952) 851–5423. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on March 30, 2020 (85 FR 17596). No comments were received.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BIE; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIE enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIE minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Indian Tribes and Tribal organizations must submit information to the BIE if they are served by elementary or secondary schools for Indian children that, through Department of the Interior, receive allocations of funding under the IDEIA for the coordination of assistance for Indian children 0 to 5 years of age with disabilities on reservations. The information must be provided on two forms. The Part B form addresses Indian children 3 to 5 years of age on reservations served by Bureau-funded schools. The Part C form addresses Indian children up to 3 years of age on reservations served by Bureau-funded schools. The information required by the forms includes counts of children as of a certain date each year.

Title of Collection: IDEIA Part B and Part C Child Count.

OMB Control Number: 1076–0176.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Indian Tribes and Tribal organizations.

Total Estimated Number of Annual Respondents: 118.

Total Estimated Number of Annual Responses: 118.

Estimated Completion Time per Response: 20 hours per form.

Total Estimated Number of Annual Burden Hours: 2,360 hours.

Respondent's Obligation: Required to Obtain a Benefit.

Frequency of Collection: Twice (Once per year for each form).

Total Estimated Annual Nonhour Burden Cost: $0.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2020–16146 Filed 7–24–20; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOF02400.L16100000.DO0000. LXSSC0100000.20X]

Notice of Availability of the Records of Decision for the Browns Canyon National Monument Resource Management Plan, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) have prepared separate Records of Decision (ROD) for the joint Approved Resource Management Plan (RMP) for the Browns Canyon National Monument (BCNM) located in Chaffee County, Colorado.

DATES: The BLM Colorado State Director signed the BLM ROD on July 21, 2020, and the Approved RMP is effective immediately on monument lands administered by the BLM. The Forest Supervisor of the Pike and San Isabel National Forest Comanche Cimarron Grasslands (PSICC) also signed the USFS ROD on July 21, 2020, and the Approved RMP will be effective on monument lands administered by the USFS 30 days after publication of this notice.

ADDRESSES: Copies of the BLM and USFS RODs and the Approved RMP are available upon request from the Field Manager, Royal Gorge Field Office, Bureau of Land Management (BLM RGFO), 3028 E. Main St., Cañon City, CO 81212, and from the District Ranger, PSICC Salida Ranger District, 5575 Cleora Road, Salida, CO 81201 or via the internet at *https://go.usa.gov/xn2eC.* Copies of the RODs and Approved RMP are available for public inspection by appointment at BLM RGFO, 3028 E. Main St., Cañon City, CO 81212, and at the PSICC Salida Ranger District, 5575 Cleora Road, Salida, CO 81201.

FOR FURTHER INFORMATION CONTACT: Joseph Vieira, Project Manager, telephone 719–246–9966; address 5575 Cleora Road, Salida, CO 81201; email *jvieira@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Vieira during normal business hours. The FRS is available 24 hours per day, 7 days per week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM and USFS have worked cooperatively with the public, stakeholders, interest

groups, cooperating agencies in State and local government, tribes, the Environmental Protection Agency, and the U.S. Fish and Wildlife Service to develop an Approved RMP that provides for the long-term conservation and protection of the monument resources, objects, and values (ROV) identified in Presidential Proclamation 9232. These values include the ''landscape's canyons, rivers, and backcountry forests, . . . diversity of plants and wildlife, including a significant herd of bighorn sheep, . . . scientifically significant geological, ecological, riparian, cultural, and historic resources.'' The Presidential Proclamation states that the monument will ''preserve its prehistoric and historic legacy and maintain its diverse array of scientific resources, ensuring that the prehistoric, historic, and scientific values remain for the benefit of all Americans,'' while recognizing its ''world class river rafting and outdoor recreation opportunities, including hunting, fishing, hiking, camping, mountain biking, and horseback riding.'' The Presidential Proclamation also provides that the monument shall be subject to valid existing rights, and directs that laws, regulations, and policies followed by the BLM or USFS in the administration of grazing shall continue to apply, consistent with the care and management of the monument ROVs.

Management decisions outlined in the Approved RMP apply only to lands managed within the boundaries of the BCNM (approximately 21,600 acres). The Approved RMP represents a new management plan for 9,790 acres administered by the BLM under the National Landscape Conservation System and amends the Pike and San Isabel National Forest Land and Resource Management Plan covering 11,810 acres administered by the USFS. The Approved RMP also includes a portion of the Arkansas Headwaters Recreation Area, a cooperatively managed area along the Arkansas River administered by the USFS, the BLM, and Colorado Parks and Wildlife (CPW). The Approved RMP establishes goals, objectives, BLM management actions/USFS standards and allowable uses for monument resources and lands including, but not limited to, the BLM wilderness study area, eligible and suitable wild and scenic rivers, and lands subject to USFS wilderness suitability determination. The Approved RMP also balances recreation, livestock grazing, travel and transportation, and realty use in a manner consistent with ROV conservation and protection. The Approved RMP includes planning level decisions and land and resource use allocations and allowances, but it does not include decisions that implement components of the land use plan.

The BLM and USFS conducted pre-planning public involvement work sessions and compiled best available scientific information from October 2016 to April 2019. The agencies initiated a joint scoping effort for the RMP in May 2019 and collected information and input via public meetings and cooperating agency meetings with CPW, Chaffee County, the City of Salida, and the Town of Buena Vista to develop the Draft RMP/Environmental Impact Statement (EIS) released in October 2019. The BLM and USFS developed the Proposed Plan Alternative based upon the Draft Preferred Alternative and public comments on the Draft RMP/EIS. The Proposed RMP/Final EIS published in the **Federal Register** on April 17, 2020 (84 FR 21454), which initiated a 30-day protest period. The agencies received 10 protests on a variety of issues, which were resolved by the BLM Director and the USFS Deputy Regional Forester. In accordance with its regulations, the BLM also provided the Governor an opportunity to review the Proposed RMP/Final EIS to promote consistency with State government plans or policies. The Governor did not identify any inconsistency with State government plans or policies. Based on further internal review, the BLM and USFS made minor editorial modifications to the Approved RMP to provide further clarification of some of the decisions.

(Authority: 40 CFR 1506.6)

Jamie E. Connell,

Colorado State Director.

[FR Doc. 2020–16151 Filed 7–24–20; 8:45 am]

BILLING CODE 4310–JB–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 Height-Adjustable Desk Platforms and Certain Components Thereof, DN 3475;* 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 Versa Products Inc. on July 21, 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 height-adjustable desk platforms and certain components thereof. The complaint names as respondents: Varidesk LLC of Coppell, TX; CKNAPP Sales, Inc. of Goodfield, IL; Loctek, Inc. of Livermore, CA; Loctek Ergonomic Technology Corporation of China; Zhejiang Loctek Smart Drive Technology Co., Ltd. of China; Amazon Import Inc. of El Monte, CA; and Stand Steady Company, LLC of Birmingham, AL. The complainant requests that the Commission issue a general exclusion order, or in the alternative, a limited exclusion order, and cease and desist orders.

Proposed respondents, 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. 3475'') 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 22, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–16238 Filed 7–24–20; 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.*

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1207]

Certain Pre-Filled Syringes for Intravitreal Injection and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on June 19, 2020, under section 337 of the Tariff Act of 1930, as amended, on behalf of Novartis Pharma AG of Switzerland; Novartis Pharmaceuticals Corporation of East Hanover, New Jersey; and Novartis Technology LLC of East Hanover, New Jersey. A letter supplementing the complaint was filed on July 10, 2020. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain pre-filled syringes for intravitreal injection and components thereof by reason of infringement of certain claims of U.S. Patent No. 9,220,631 (''the '631 patent''). The complaint further alleges that an industry in the United States exists or is in the process of being established as required by the applicable Federal Statute. The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in § 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2020).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on July 21, 2020, 2020, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as

amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1–6 and 11–26 of the '631 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to § 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''syringes that are pre-filled with ophthalmic medication, and components of such syringes, including barrels, plungers, and stoppers'';

(3) Pursuant to Commission Rule § 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. 1337(d)(1), (f)(1), (g)(1);

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Novartis Pharma AG, Forum 1, Novartis Campus, CH–4056 Basel, Switzerland.

Novartis Pharmaceuticals Corporation, One Health Plaza, East Hanover, New Jersey, 07936.

Novartis Technology LLC, One Health Plaza, East Hanover, New Jersey, 07936.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served:

Regeneron Pharmaceuticals, Inc., 77 Old Saw Mill River Road, Tarrytown, New York 10591.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with § 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainants of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.
Issued: July 21, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–16138 Filed 7–24–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–449 and 731–TA–1118–1121 (Second Review)]

Light-Walled Rectangular Pipe and Tube From China, Korea, Mexico, and Turkey

Determination

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the countervailing duty order on light-walled rectangular pipe and tube from China and antidumping duty orders on light-walled rectangular pipe and tube from China, Korea, Mexico, and Turkey would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on May 1, 2019 (84 FR 18577) and determined on August 5, 2019 that it would conduct full reviews (84 FR 44330, August 23, 2019). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on January 22, 2020 (85 FR 3717). Subsequently, the Commission cancelled its previously scheduled hearing following a request on behalf of the domestic interested parties (85 FR 31550, May 26, 2020).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on July 22, 2020. The views of the Commission are contained in USITC Publication 5086 (July 2020), entitled *Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey: Investigation Nos. 701–TA–449 and 731–TA–1118–1121 (Second Review).*

By order of the Commission.
Issued: July 22, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–16236 Filed 7–24–20; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0013]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application for Tax-Exempt Transfer of Firearm and Registration to Special Occupational Taxpayer—ATF Form 3 (5320.3)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for an additional 30 days until August 26, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the 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;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension with change of a currently approved collection.

(2) *The Title of the Form/Collection:* Application for Tax-Exempt Transfer of Firearm and Registration to Special Occupational Taxpayer.

(3) *The agency form number, if any, and the applicable component of the Department* sponsoring the collection:

Form number: ATF Form 3 (5320.3).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: Federal Government.

Abstract: The Application for Tax-Exempt Transfer of Firearm and Registration to Special Occupational Taxpayer—ATF Form 3 (5320.3) form is used by Federal firearms licensees, to apply for the transfer and registration of a National Firearms Act (NFA) firearm that is subject to exemption from transfer tax, as provided by 26 U.S.C. 5852(d).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 130,289 respondents will utilize the form annually, and it will take each respondent approximately 30 minutes to complete their responses.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 65,145 hours, which is equal to 130,289 (# of respondents) * 1 (# of responses per respondent) * .5 (30 minutes or the total time taken to complete each response).

(7) An Explanation of the Change in Estimates: The adjustments to this information collection include a decrease in the total responses by 47,211. Consequently, the annual burden hours has also reduced by 23,605. However, the public cost increased to $ 4,292, because some respondents completed and mailed their applications to ATF for processing, although this collection can be electronically submitted.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: July 22, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–16172 Filed 7–24–20; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 17–29]

Frank Joseph Stirlacci, M.D.; Decision and Order

I. Introduction

On April 5, 2017, the then-Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause to Frank Joseph Stirlacci, M.D. (hereinafter, Respondent), of Agawam, Massachusetts and Hammond, Indiana. Administrative Law Judge Exhibit (hereinafter, ALJX) 1 (Order to Show Cause (hereinafter, OSC)), at 1. The OSC proposed the revocation of Respondent's DEA certificate of registration (hereinafter, registration) on the ground that he ''materially falsified . . . [his] application for renewal in violation of 21 U.S.C. 823(f) and 824(a)(1).'' *Id.*

The substantive grounds for the proceeding, as more specifically alleged in the OSC, are that Respondent, ''[o]n or about February 7, 2017, . . . submitted a renewal application for . . . [his registration number] BS5000411 seeking to change . . . [his] registered address to . . . Hammond, Indiana . . . [and] made two material false statements in . . . [his] renewal application''—(1) answering ''no'' to whether he had ever been convicted of a crime in connection with controlled substances under state or federal law, or whether any such action is pending, and (2) answering ''no'' to whether he had ever surrendered (for cause) or had a state professional license revoked, suspended, denied, restricted, or placed on probation, or whether any such action is pending. *Id.* at 2. Citing 21 U.S.C. 823(f) and 824(a)(1), the OSC concluded that ''DEA must revoke . . . [Respondent's registration] based upon . . . [his] material falsifications of . . . [his] renewal application.'' *Id.*

The OSC notified Respondent of his right to request a hearing on the allegations or to submit a written statement while waiving his right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* at 2–3 (citing 21 CFR 1301.43). Respondent timely requested a hearing by letter dated April 29, 2017. ALJX 2 (Request for Hearing).

The matter was placed on the docket of the Office of Administrative Law Judges and assigned to Chief Administrative Law Judge (hereinafter, ALJ) John J. Mulrooney, II. The parties initially agreed to eight stipulations.[1]

[1] ''1. The Respondent is registered with the DEA as a practitioner to handle controlled substances in Schedules II to V under DEA COR [certificate of registration] No. BS5000411, with a registered address of Regional Health Center, 559 State Street, Hammond, Indiana 46320. The Respondent's DEA COR expires by its own terms on February 29, 2020.

''2. From April 17, 2015 to May 11, 2015, the Respondent was incarcerated in Kentucky.

''3. On February 5, 2016, the Respondent entered into a Voluntary Agreement Not to Practice Medicine in the Commonwealth of Massachusetts with the Board of Registration.

''4. On January 26, 2017, the Respondent was indicted by the Commonwealth of Massachusetts

Continued

ALJX 11 (Prehearing Ruling, dated June 22, 2017), at 1–2.

The hearing in this matter lasted one day and took place in Arlington, Virginia on August 22, 2017. The Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (hereinafter, RD) is dated September 29, 2017. Respondent filed exceptions to the RD. ALJX 31 (Respondent's Exceptions to the CALJ's Recommended Decision, dated Oct. 19, 2017). The Government sought and received leave to respond to Respondent's Exceptions over Respondent's objection. ALJX 32 (Government's Request for Leave to File Response to Respondent's Exceptions, dated Oct. 19, 2017); ALJX 34 (Order Granting the Government's Request for Leave to File Response to Respondent's Exceptions, dated Oct. 24, 2017). The Government's response to Respondent's Exceptions is dated November 1, 2017. ALJX 35 (Government's Response to Respondent's Exceptions, dated Nov. 1, 2017).

Having considered the record in its entirety, I agree with the RD's conclusion that the record establishes, by clear, unequivocal, and convincing evidence, that Respondent materially falsified his registration renewal application.[2] I find that Respondent did not accept responsibility for the material falsification. Accordingly, I conclude that I can no longer entrust Respondent with a registration, that his registration should be revoked, and that any pending application by Respondent for registration in Indiana should be denied. I make the following findings.

II. Findings of Fact

A. Respondent's Current Registration

Respondent's current registration, BS5000411, is at the Regional Health Center in Hammond, Indiana. GX 1 (Certificate of Registration), at 1; Tr. 13. Its expiration date is February 29, 2020.[3] GX 1, at 1; GX 2 (Certification of Registration Status), at 1.

B. The Investigation of Respondent

A former employee of Respondent contacted DEA stating that Respondent ''authorized the issuing of prescriptions and seeing patients by a medical assistant in his office while he was incarcerated.'' Tr. 20, 23. The case Diversion Investigator (hereinafter, DI) followed up on the allegation by obtaining copies of prescriptions that Respondent issued during his incarceration and requesting recordings of telephone conversations between Respondent and his office staff during the same period. *Id.* at 23–30.

While the hearing testimony's description of the allegation does not specify whether any of the alleged prescriptions were for controlled substances, there is substantial evidence in the record that the allegation did include, at least in part, the prescribing of controlled substances. For example, the DEA employee staffing the DEA tip line referred the allegation to DI. *Id.* at 20–23. If the allegation had no potential connection to controlled substances, the DEA employee initially receiving the tip would not have referred it to DI for investigation based on DEA's jurisdiction. Further, DI's investigation of the allegation included his request for information from prescription monitoring programs (hereinafter, PDMP). *Id.* at 23–24. The Massachusetts PDMP was established to ''maintain an electronic system to monitor the prescribing . . . of all schedule II to V, inclusive, controlled substances and certain additional drugs . . . determined . . . to carry a bona fide potential for abuse.'' Mass. Gen. Laws ch. 94C, § 24A (Current through Chapter 44 of the 2020 2nd Annual Session). Had the tip not included an allegation related to controlled substances, there would not have been any reason for DI to request PDMP information. As such, I find that the allegation by Respondent's staff concerned, at least in part, the unlawful prescribing of controlled substances.

C. The Material Falsification Allegations

As already discussed, the OSC alleges that Respondent submitted a renewal application containing two material falsifications. OSC, at 2. The first alleged material falsification is his negative response to whether he had ever been convicted of a crime in connection with controlled substances under state or federal law, or whether ''any such action [is] pending?'' *Id.* According to the Government, Respondent's negative response to this ''liability question'' was materially false, because the ''Commonwealth of Massachusetts had indicted . . . [him] for crimes in connection with controlled substances less than two weeks earlier.'' *Id.*

The second alleged material falsification is Respondent's negative response to whether he had ''ever surrendered (for cause) or had a state professional license . . . revoked, suspended, denied, restricted, or placed on probation, or is any such action pending?'' *Id.* The OSC alleges, and the Government sufficiently and timely further explicated, that this negative response was materially false, because Respondent ''had just agreed to not practice medicine within the Commonwealth of Massachusetts.'' [4] *Id.;* 5 U.S.C. 554(b)(3); *contra* ALJX 31, at 1.

There is factual agreement among the witnesses on a number of matters. When there is factual disagreement, I apply my credibility determinations and the credibility recommendations of the Chief ALJ in all but a portion of one instance. *Infra* Section D.

D. The Government's Case

The Government's admitted documentary evidence consists primarily of Respondent's renewal application (GX 6), the sixty-eight page Hampden County Superior Court criminal indictment of Respondent (GX 5), and the Voluntary Agreement Not to Practice Medicine that Respondent and his attorney signed and that the Massachusetts Board of Registration in Medicine (hereinafter, MBRM) ''accepted,'' on February 5, 2016 (GX 3) (hereinafter, Mass. Accepted Voluntary No-Practice Agreement).[5] The

for: (1) 26 counts of Improper Prescriptions, in violation of Mass. Gen. Laws ch. 94C § 19(a); (2) 22 counts of False Health Care Claims, in violation of Mass. Gen. Laws ch. 175H § 2; and (3) 20 counts of Uttering False Prescriptions, in violation of Mass. Gen. Laws ch. 94C § 33(b).

''5. On February 7, 2017, at approximately 17:04 Eastern Time, the Respondent submitted a renewal application for his DEA COR.

''6. The Respondent did not disclose the February 5, 2016 Voluntary Agreement Not to Practice Medicine on his February 7, 2017 renewal application.

''7. The Respondent did not disclose the January 26, 2017 indictments outlined above on his February 7, 2017 renewal application.

''8. The Respondent did not supplement his February 7, 2017 renewal application.''

On the hearing day, the parties submitted additional Stipulations. ALJX 26; transcript page number (hereinafter, Tr.) 5–6. According to the ''Joint Notice of Stipulations,'' the parties stipulated to the authenticity of Respondent's registration in GX 1, of Respondent's registration history in GX 2, and of the Affidavit of Daniel Kelly, RX 3.

[2] I reviewed, and agree with, the Chief ALJ's pre-hearing, hearing, and post-hearing rulings and orders.

[3] The current status of Respondent's registration, whether expired or timely renewed, does not impact my adjudication of this matter. *Jeffrey D. Olsen, M.D.,* 84 FR 68,474 (2019); 5 U.S.C. 558(c).

[4] Although the date in the OSC associated with this allegation is February 5, 2017, the parties subsequently agreed that the correct date is February 5, 2016. Joint Stipulation No. 3.

[5] The Hampden County Superior Court criminal indictment charges Respondent with twenty-six counts of ''improper prescription,'' twenty counts of ''uttering false prescription,'' and twenty-two counts of ''false health care claim.'' GX 5 (Massachusetts Superior Court Indictment No. 17 039 (dated Jan. 26, 2017)). The improper prescription allegations concern controlled substances such as hydrocodone (15 counts),

Government called two witnesses: DI and an Investigator for the MBRM (hereinafter, MBRM Investigator).

DI testified about his investigation-related activities of the ''tip'' submitted by Respondent's former employee, including, his interaction with Respondent's attorney, Daniel M. Kelly, on February 6, 2017, about the Hampden County Superior Court criminal indictment of Respondent and his request for the surrender of Respondent's registration, and his acquisition of an official copy of the Mass. Accepted Voluntary No-Practice Agreement (GX 3). Tr. 34–40 and 41–43, respectively.

DI testified during the Government's rebuttal case that he investigated whether DEA had a record of Respondent's notification of the Mass. Accepted Voluntary No-Practice Agreement. Tr. 140. DI stated that he checked DEA's ''permanent and running database of any activity regarding any registrants or any DEA registration.'' *Id.* at 142. He also testified that he asked the registration specialist for Massachusetts, who is responsible for recording any communication from a registrant, whether DEA had received a communication from Respondent. *Id.* at 143. Neither the check of the database nor the check with the registration specialist showed any communication from Respondent about the Mass. Accepted Voluntary No-Practice Agreement. *Id.* at 140–45. DI acknowledged that Respondent could have notified DEA after DI checked the database and spoke with the registration specialist, and that the registration specialist's check may not have been thorough. *Id.* at 146–48.

I agree with the Chief ALJ that DI's testimony was ''sufficiently detailed, internally consistent, and plausible to be granted full credibility'' and that he ''presented as a credible, objective, dispassionate investigator without any discernible incentive to fabricate or exaggerate.'' RD, at 5.

MBRM Investigator testified that he is the lead MBRM investigator assigned to assess the information the MBRM received from DEA about Respondent, that Respondent issued prescriptions when incarcerated in Kentucky, and that the investigation remains open. Tr. 59, 77. MBRM Investigator testified about the multiple oral and written communications he had with Respondent, Respondent's hiring an attorney, Respondent's signing the Mass. Accepted Voluntary No-Practice Agreement, and Respondent's continued lack of permission to practice medicine in Massachusetts due to his signing the Mass. Accepted Voluntary No-Practice Agreement.[6] Tr. 59–75, 74, 74–75, and 75–80, respectively.

MBRM Investigator testified during the Government's rebuttal case that he previously investigated two other cases concerning Respondent. *Id.* at 150–52. In both instances, MBRM Investigator stated, he notified Respondent of the investigation by phone, by letter, or by both phone and letter. *Id.* at 152.

MBRM Investigator also testified during the Government's rebuttal case that Respondent ''would call and leave . . . messages'' about the case, ''continually . . . asking what he could do to speed the case along.'' *Id.* at 152–53. According to the MBRM Investigator, Respondent's calls occurred during the summer of 2016. *Id.* at 153. Respondent did not rebut this aspect of MBRM Investigator's testimony. *Id.* at 154.

I agree with the Chief ALJ that MBRM Investigator's testimony was ''sufficiently detailed, internally consistent, and plausible to be granted full credibility,'' except as to the plausibility of MBRM Investigator's interpretation of the legal effect of the Mass. Accepted Voluntary No-Practice Agreement. RD, at 5. I agree with the Chief ALJ that MBRM Investigator ''presented as a credible, objective, dispassionate investigator without any discernible incentive to fabricate or exaggerate.'' *Id.*

E. Respondent's Case

Respondent testified and called no other witness. Tr. 81–82.

During his testimony, Respondent recounted his pursuit of a career as a physician since his childhood, discussed his medical licenses and primary care physician practices in Indiana and Massachusetts, and explained that the ''immediate cause'' of his moving from Massachusetts to Indiana was his ''enter[ing] into the voluntary agreement not to practice medicine'' on February 5, 2016. *Id.* at 86–87, 88–93, and 93–95, respectively.

Respondent testified that he first found out from MBRM Investigator that Massachusetts was investigating him on or about January 27, 2016, about a week after he submitted a medical license renewal application. *Id.* at 131. Respondent testified he entered into the Mass. Accepted Voluntary No-Practice Agreement because the MBRM ''had concerns regarding what occurred with . . . [his] divorce, incarceration, contempt,'' and because MBRM Investigator asked him to sign it. *Id.* at 95–96. He testified that he signed it with the assistance of Mr. Kelly, ''the attorney who's representing . . . [him] in the indictment in Massachusetts,'' that his Massachusetts medical license had not expired, and that the Mass. Accepted Voluntary No-Practice Agreement ''is non-disciplinary, there's no violation, so I guess it's a tool that Massachusetts has or a remedy until they can further pursue . . . whatever they have concerns about.''[7] *Id.* at 96–97.

Respondent confirmed that there are ''reporting requirements'' associated with the Mass. Accepted Voluntary No-Practice Agreement and certified that he fulfilled them. *Id.* at 97–98, 155–56. He testified that he received a ''return receipt requested'' green card from his notification to DEA, but no actual notification of receipt from DEA. *Id.* at 98–99.[8] He also stated that he did not have a ''direct conversation'' with anyone at DEA about his entering into the Mass. Accepted Voluntary No-Practice Agreement. *Id.* at 99.

During cross-examination, Respondent offered his perspective of the Mass. Accepted Voluntary No-Practice Agreement. He testified that the ''effect'' of the document is ''self-contained in the words of the document itself.'' *Id.* at 110. He stated that, although he did not know whether Massachusetts was still investigating him, he ''assumed'' that its investigation

oxycodone (6 counts), fentanyl (3 counts), and methadone (3 counts).

[6] During cross-examination, MBRM Investigator responded ''no'' when Respondent's counsel asked if the Mass. Accepted Voluntary No-Practice Agreement is a suspension, revocation, resignation, lapsing, or restriction on Respondent's medical license, or if it is a ''probationary agreement.'' Tr. 77–78.

In response to questions posed by the Chief ALJ, MBRM Investigator stated his understanding that ''if you practice [medicine] during a voluntary, we as the Board of Medicine could possibly summarily suspend you.'' Tr. 80; *see also* GX 3, at 2.

[7] Stipulation No. 2, ''From April 17, 2015 to May 11, 2015, the Respondent was incarcerated in Kentucky,'' concerns Respondent's having been held in contempt and incarcerated in Kentucky in connection with a divorce matter. ALJX 11, at 2. During cross-examination, Respondent admitted that he responded in the negative to a question on the Massachusetts medical license renewal application about whether he had been ''charged with any criminal offense during this period?'' Tr. 124–25. He also admitted to responding ''no'' to questions on the same application about whether any criminal offenses or charges against him had been resolved during the time period, and whether any criminal charges were pending against him ''today.'' Tr. 125–26. Respondent explained that he answered ''no'' because the Kentucky matter was about his divorce and not, in his understanding, about a medical or criminal matter. Tr. 129. He stated that ''to think that contempt in my divorce rose to a level of criminal activity, it didn't quite register like that. I mean, I'm sorry. It just didn't.'' *Id.*

[8] According to Respondent, he ''possibly may,'' but does not ''believe'' that he still has the return receipt card from the mailing to DEA. Tr. 115.

was still open, more likely than not. *Id.* In response to a question posed by the Chief ALJ, however, Respondent agreed that his signing the Mass. Accepted Voluntary No-Practice Agreement meant that everything was ''sort of'' held in the status quo. *Id.* at 134. He again ''assumed'' that the hold was so MBRM could finish its investigation. *Id.* at 135. As Respondent continued to say ''I don't know'' and ''I guess'' about the status of the MBRM investigation, the Chief ALJ sought clarification, asking, ''But your belief wasn't that you were just going to stop practicing medicine forever. Your belief was that until they sort this out, you were in this status?'' *Id.* Respondent answered, ''Until, right, right, that they would sort it.'' *Id.* at 135–36.

The Chief ALJ then asked Respondent ''who is Daniel Kelly? Where does he come into it?'' *Id.* at 136. Respondent replied that Mr. Kelly represented him in the federal and local criminal matters ''from the beginning . . . so he was aware of—he knew the entire situation, I guess,'' and that Respondent retained him ''a year prior'' to the indictment. *Id.* at 136–37. During this inquiry, the Chief ALJ suggested, and I agree, that Respondent retained a criminal defense attorney because he knew that a criminal investigation was pending. *Id.*

Respondent stated his understanding that the ''or is any such action pending'' portion of the third liability question did not call for him to answer yes, even though he assumed that Massachusetts was still investigating him. *Id.* at 111–12. When asked if he would have had to answer ''yes'' if he knew about an investigation by Massachusetts, he answered yes, he should have answered ''yes'' if he were aware of a Massachusetts investigation. *Id.* at 114–15. He elaborated by reiterating his view that the Mass. Accepted Voluntary No-Practice Agreement is a ''tool'' of the MBRM. *Id.* at 112. He stated that it is ''non-disciplinary'' and that it is ''not restriction, probation, all of the things that it has in there pertaining to the question, and my understanding is it's to avoid any action.'' *Id.* Further, on re-direct, Respondent testified that he ''answered the question [on the DEA application] honestly at that time . . . to the best of my knowledge.'' *Id.* at 130. On re-cross, Respondent answered ''no'' when asked whether he thought ''putting all those ''No's'' there, it was more likely that they were going to renew your certificate of registration.'' *Id.* at 133. He responded ''not one way or the other. I mean, they're asking questions and then they will make a determination based on the totality of everything. . . . [I]t's up to them.'' *Id.*

Regarding the Hampden County Superior Court criminal indictment, Respondent confirmed that its allegations stem ''from that time . . . [he] was incarcerated.'' *Id.* He testified that Mr. Kelly told him about the indictment on Thursday morning, February 9, 2017, a couple days after Respondent submitted the registration renewal. *Id.* at 100. He stated that he did not know that he had been indicted when he submitted the registration renewal. *Id.; see also id.* at 102–03 (denying he received personal service of the indictment before he submitted the renewal application).

Respondent testified that he never had a problem with his registration since he first received it in ''approximately'' 1996, and that he has had a ''full unrestricted'' medical license since 1996. *Id.* at 100–01. He stated that his registration and medical licenses have ''all been in good standing, unrestricted [in] full with all states that I've ever held licenses in.'' *Id.* at 101. Respondent explained his negative response to the third liability question on the renewal application by testifying that ''my license has not been revoked, my license has not been suspended. They did not deny my license. I have my license. It's currently preserved . . . . There's no restriction on my license. It has not been placed on probation. So the answer is no.'' *Id.* at 104. In addition, Respondent confirmed that he did not ''consider whether the Massachusetts voluntary agreement not to practice medicine, whether that should cause . . . [him] to answer ''Yes'' to that particular question.'' *Id.*

Respondent testified that he ''honestly believed when . . . [he] completed the application that . . . [his] answers were truthful, to the best of . . . [his] ability,'' and that he had ''no intent to deceive the DEA. There would be no purpose in that.'' *Id.* at 104–05; *see also id.* at 109.[9]

I agree with the Chief ALJ's analysis of the credibility of Respondent's testimony.

While the Respondent's testimony was not without some credible aspects, it was also not without some bases for reservation. In addition to the incontrovertible fact that as the subject of these proceedings, the Respondent has the most at stake, his unequivocal assertion that his state licensure has never been the subject of any investigation since the commencement of his medical practice in 1996 was convincingly contradicted by . . . [MBRM Investigator], who credibly testified that he investigated the Respondent regarding a patient complaint and failure to cooperate with that complaint, and that he telephonically informed him about that investigation. . . . Further, . . . [Respondent's] unwillingness to acknowledge that benign responses to the Liability Questions were less likely to raise concern did not enhance his credibility here. The Respondent is an educated professional, and irrespective of his view that his answers in the application were candid, his refusal to accept the proposition that unremarkable responses are generally more likely to result in a favorable outcome in a DEA application was a gratuitous depreciation of his overall credibility.

Moreover, the Respondent's testimony that he forwarded a copy of the . . . [Mass. Accepted Voluntary No-Practice Agreement] to DEA, but failed to keep a shred of paperwork memorializing that act, is implausible. By the Respondent's own account, sending the Agreement to various offices, including DEA, was a term of the Agreement. . . . That he would fail to keep any evidence of his compliance with that term, particularly after he expounded on the importance of such compliance as an integral aspect of his profession, is simply not credible. Although much of the Respondent's testimony is worthy of belief, in instances where that testimony is at variance with other credible testimony, it must be viewed with heightened scrutiny.[10]

RD, at 7–8 [citations and footnotes omitted].

F. Allegation That Respondent Submitted a Materially False Registration Renewal Application

As already discussed, the OSC charged Respondent with submitting a renewal application containing two material false statements. The first alleged material false statement concerns Liability Question No. 1 and Respondent's negative response as to whether he had ever been convicted of a crime in connection with controlled substances under state or federal law, ''or [is] any such action pending.'' OSC, at 2. The second alleged material false

[9] Respondent also testified that he would lose his job if he did not have a registration. Tr. 105.

[10] The RD ''found that Respondent's testimony was 'convincingly contradicted' by a Government witness, thus disputing the credibility of Respondent's testimony.'' ALJX 31, at 9. Respondent took exception to this portion of the RD, arguing that the RD's credibility determination ''is not supported by the cited record as Respondent never made any such assertion.'' *Id.* at 10. I reject Respondent's exception.

First, although Respondent correctly distinguishes between the words ''discipline'' and ''investigations'' in the transcript, he ignores the substance of MBRM Investigator's testimony. Tr. 101, 151. MBRM Investigator clearly testified that he opened a ''second docket'' due to Respondent's ''failure to answer the . . . [MBRM] during that first case.'' *Id.* at 152. I find that Respondent's fully honest response to his counsel's question of ''And before all this started taking place, did you ever have any sort of medical state discipline?'' would have included and disclosed the opening of the second docket due to Respondent's failure to answer the MBRM during the first case. *Id.* at 101. Second, as the Government points out, Respondent inaccurately suggests that the RD makes a ''negative credibility determination based solely on Respondent's failure to disclose two prior state investigations.'' ALJX 35, at 8.

statement concerns Liability Question No. 3 and Respondent's negative response as to whether he had ever surrendered (for cause) or had a state professional license revoked, suspended, denied, restricted, or placed on probation, or whether ''any such action [is] pending.'' *Id.*

G. Liability Question No. 1

I find that Respondent answered ''no'' to the first Liability Question on the registration application. GX 2, at 2; ALJX 11, at 2 (Stipulation Nos. 7 and 8). I find that the Hampden County Superior Court criminal indictment of Respondent is dated January 26, 2017. GX 5. I find that DI informed Respondent's attorney about the Hampden County Superior Court criminal indictment on February 6, 2017. Tr. 34–40. Even if the Hampden County Superior Court criminal indictment is a precursor ''action pending'' to a possible criminal conviction in connection with controlled substances under state or federal law, I find that there is insufficient evidence in the record that Respondent, himself, as opposed to his attorney, knew about the Hampden County Superior Court criminal indictment on or before February 7, 2017. I, thus find that the evidence the Government submitted does not establish that Respondent's ''no'' response to the first Liability Question was false, let alone materially false, when he submitted his renewal application to DEA on February 7, 2017.

H. Liability Question No. 3

I find from clear, unequivocal, and convincing evidence that Respondent answered ''no'' to the third Liability Question on the registration application. ALJX 11, at 2 (Stipulation Nos. 6 and 8); GX 2, at 2. I find from clear, unequivocal, and convincing evidence that Respondent and his attorney signed the Mass. Accepted Voluntary No-Practice Agreement on February 5, 2016. GX 3, at 3. I find from clear, unequivocal, and convincing evidence that the MBRM ''accepted'' and ''ratified'' the Mass. Accepted Voluntary No-Practice Agreement on February 5, 2016 and February 11, 2016, respectively. *Id.*

I find from clear, unequivocal, and convincing evidence that the Mass. Accepted Voluntary No-Practice Agreement resulted from the MBRM investigation of the tip DEA received, that the Mass. Accepted Voluntary No-Practice Agreement is still in effect, and that the MBRM investigation was open at least through the date of the DEA administrative hearing. Tr. 76–77. I find from clear, unequivocal, and convincing evidence that the Mass. Accepted Voluntary No-Practice Agreement is the reason Respondent is not permitted to practice medicine in Massachusetts. ALJX 11, at 2 (Stipulation No. 3); Tr. 94–99. I find from clear, unequivocal, and convincing evidence that the terms of the Mass. Accepted Voluntary No-Practice Agreement include Respondent's ''immediate'' cessation of the practice of medicine in Massachusetts. GX 3, at 2. Based on clear, unequivocal, and convincing evidence, I find that the Mass. Accepted Voluntary No-Practice Agreement is a clear indicator, and is part, of pending action by the MBRM regarding Respondent's Massachusetts medical license. For example, the top of the first page of the Mass. Accepted Voluntary No-Practice Agreement is captioned ''In the Matter of'' Respondent and shows a docket number starting with the year. *Id.* The second paragraph clearly states that the Mass. Accepted Voluntary No-Practice Agreement ''will remain in effect'' until the MBRM modifies it, terminates it, ''takes other action against . . . [Respondent's] license to practice medicine,'' or ''takes final action on the above-referenced matter.'' *Id.* The sixth paragraph of the Mass. Accepted Voluntary No-Practice Agreement warns that ''[a]ny violation of this Agreement shall be *prima facie* evidence for immediate summary suspension of my license to practice medicine.'' *Id.* [italics added]. The last page of the Mass. Accepted Voluntary No-Practice Agreement contains the dates on which the MBRM ''accepted'' and ''ratified,'' by vote of the MBRM, the Agreement. GX 3, at 3. These terms and provisions leave no room for doubt that the Mass. Accepted Voluntary No-Practice Agreement evidences, and is part of, pending action by the MBRM regarding Respondent's medical license. Indeed, I find from clear, unequivocal, and convincing evidence that the Mass. Accepted Voluntary No-Practice Agreement envisions the possibility that it could be used as *prima facie* evidence for the ''immediate summary suspension'' of Respondent's Massachusetts medical license. GX 3, at 2.

In sum, I find from clear, unequivocal, and convincing evidence that the third Liability Question on the application Respondent submitted to DEA asks whether the applicant ever surrendered (for cause) or had a state professional license or controlled substance registration revoked, suspended, denied, restricted, or placed on probation, ''or is any such action pending?'' [11] GX 2, at 2. As already discussed, I find from clear, unequivocal, and convincing evidence that, at a minimum, the Mass. Accepted Voluntary No-Practice Agreement shows a pending action exists in Massachusetts concerning Respondent by its explicit warning that ''immediate summary suspension'' of Respondent's Massachusetts medical license is a possible result of ''any violation of this Agreement.'' [12] GX 3, at 2. Consequently, I find based on clear, unequivocal, and convincing evidence, that Respondent's ''no'' answer to the third Liability Question was false.[13] For the same reasons, and based on the same clear, unequivocal, and convincing evidence, I also find that Respondent knew, or should have known, that his answer to the third Liability Question was false. Further, for the same reasons and based on the same evidence in conjunction with the credibility determinations I already made, I find that Respondent falsified his answer to the third Liability Question to help ensure DEA's favorable action on his application and, therefore, that Respondent's falsification indicates an intent to deceive.[14]

III. Discussion

A. The Controlled Substances Act and the OSC Allegations

Pursuant to section 303(f) of the Controlled Substances Act (hereinafter, CSA), ''[t]he Attorney General shall register practitioners . . . to dispense . . . controlled substances . . . if the applicant is authorized to dispense . . .

[11] I need not address Respondent's argument that his signing the Mass. Accepted Voluntary No-Practice Agreement was not a ''for cause'' surrender because my Decision is not based on that aspect of Liability Question No. 3.

[12] Respondent's argument that he is still subject to an open investigation may also be true. ALJX 30 (Respondent's Proposed Findings of Fact and Conclusions of Law, dated Sept. 21, 2017), at 11. I need not address Respondent's argument that an investigation is not a ''pending action.'' *Id.* at 12–13. As already explained, the Mass. Accepted Voluntary No-Practice Agreement makes clear on its face that the MBRM has a pending action concerning Respondent, and I find unavailing all of Respondent's arguments to the contrary. *See, e.g.,* ALJX 31, at 4–6.

[13] For the same reasons, I conclude that Respondent's arguments that he ''still maintains his license,'' that he did not surrender it, are misplaced and legally irrelevant.

[14] Proof of intent to deceive has never been, and is not, a required element of a material falsification under 21 U.S.C. 824(a)(1). Indeed, at its essence, intent to deceive conflicts with Agency decisions' long-standing material falsification determinations of whether the applicant ''knew or should have known'' that the application was false. Some past Agency material falsification decisions address an intent to deceive in determining the appropriate sanction for a material falsification, as do I. *See infra* note 32.

controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Section 303(f) further provides that an application for a practitioner's registration may be denied upon a determination that ''the issuance of such registration . . . would be inconsistent with the public interest.'' *Id.* In making the public interest determination, the CSA requires me to consider the following factors:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing . . . controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety. Id.

''These factors are . . . considered in the disjunctive.'' *Robert A. Leslie, M.D.,* 68 FR 15,227, 15,230 (2003). I ''may rely on any one or a combination of factors and may give each factor the weight [I] deem[ ] appropriate in determining whether . . . an application for registration [should be] denied.'' *Id.* Moreover, while I am required to consider each of the factors, I ''need not make explicit findings as to each one,'' and I ''can 'give each factor the weight . . . [I] determine[ ] is appropriate.'''' *MacKay* v. *Drug Enf't Admin.,* 664 F.3d 808, 816 (10th Cir. 2011) (quoting *Volkman* v. *Drug Enf't Admin.,* 567 F.3d 215, 222 (6th Cir. 2009) quoting *Hoxie* v. *Drug Enf't Admin.,* 419 F.3d 477, 482 (6th Cir. 2005)). In other words, the public interest determination ''is not a contest in which score is kept; the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant's misconduct.'' *Peter A. Ahles, M.D.,* 71 FR 50,097, 50,098–99 (2006).

Pursuant to section 304(a)(1), the Attorney General is also authorized to suspend or revoke a registration ''upon a finding that the registrant . . . has materially falsified any application filed pursuant to or required by this subchapter.'' 21 U.S.C. 824(a)(1). It is well established that the various grounds for revocation or suspension of an existing registration that Congress enumerated in this section are also properly considered in deciding whether to grant or deny an application under section 303. *See Richard J. Settles, D.O.,* 81 FR 64,940, 64,945 (2016); *Arthur H. Bell, D.O.,* 80 FR 50,035, 50,037 (2015); *The Lawsons, Inc., t/a The Medicine Shoppe Pharmacy,* 72 FR 74,334, 74,338 (2007); *Samuel S. Jackson, D.D.S.,* 72 FR 23,848, 23,852 (2007); *Alan R. Schankman, M.D.,* 63 FR 45,260, 45,260 (1998); *Kuen H. Chen, M.D.,* 58 FR 65,401, 65,402 (1993).[15]

The Government has the burden of proof in this proceeding. 21 CFR 1301.44.

As already discussed, Respondent submitted a registration renewal application containing a false answer to the question of whether he ''ever surrendered (for cause) or had a state professional license . . . revoked, suspended, denied, restricted, or placed on probation, or is any such action pending?'' The Supreme Court explained decades ago that ''the ultimate finding of materiality turns on an interpretation of substantive law.'' *Kungys* v. *United States,* 485 U.S. 759, 772 (1988) (citing a Sixth Circuit case involving 18 U.S.C. 1001 and explaining that, even though the instant case concerned 8 U.S.C. 1451(a), ''we see no reason not to follow what has been done with the materiality requirement under other statutes dealing with misrepresentations to public officers''). The Supreme Court also clarified that a falsity is material if it is ''predictably capable of affecting, *i.e.,* had a natural tendency to affect, the official decision.'' *Id.* at 771.

In this case, application of the Supreme Court's materiality analysis, in the context of the CSA, means that Respondent's false submission was material. *Id.* Indeed, the falsity Respondent submitted in his renewal application relates to three of section 303(f)'s five factors, which provide the bases for my determination of whether an application is inconsistent with the public interest. 21 U.S.C. 823(f); *see JM Pharmacy Group, Inc., d/b/a Farmacia Nueva and Best Pharma Corp.,* 80 FR 28,667, 28,681 (2015) (stating that a falsity must be analyzed in the context of the application requirements sought by DEA and provided by the applicant, and must relate to a ground that could affect the decision); *see also* ALJX 30 (Respondent's Proposed Findings of Fact and Conclusions of Law, dated Sept. 21, 2017), at 14; *Universal Health Servs., Inc.* v. *United States ex rel. Escobar,* 136 S. Ct. 1989, 2003 (2016) (hereinafter, *Escobar*) (stating that ''[u]nder any understanding of the concept, materiality 'look[s] to the effect on the likely or actual behavior of the recipient of the alleged misrepresentation.'''); *Maslenjak* v. *United States,* 137 S. Ct. 1918, 1928 (2017) (concluding that when ''there is an obvious causal link between the . . . lie and . . . [the] procurement of citizenship,'' the facts ''misrepresented are themselves disqualifying'' and I ''can make quick work of that inquiry''). Respondent's provision of false information deprived me of the ability to carry out my statutorily mandated five-factor analysis concerning the registration of practitioners. 21 U.S.C. 823(f). In other words, there is no doubt that Respondent's falsity was ''predictably capable of affecting, *i.e.,* had a natural tendency to affect, the official decision'' the CSA instructs me to make. *Kungys,* 485 U.S. at 771.

The facts in this case clearly demonstrate the connection between one liability question and three of section 303(f)'s five factors. *Infra* note 30. The first section 303(f) factor is the ''recommendation of the appropriate State licensing board or professional disciplinary authority.'' 21 U.S.C. 823(f)(1). In this case, the MBRM accepted and ratified Respondent's Mass. Accepted Voluntary No-Practice Agreement on February 5 and 11, 2016, respectively. GX 3, at 2. As already discussed, pursuant to Respondent's Mass. Accepted Voluntary No-Practice Agreement, as accepted and ratified by the MBRM, Respondent admits that his Massachusetts medical license no longer permits him to practice medicine; Respondent's state professional license is restricted to a practical nullity. Tr. 89, 93. Further, as already discussed, the second paragraph of the Mass. Accepted Voluntary No-Practice Agreement explicitly states that the ''Matter'' of Respondent's Mass. Accepted Voluntary No-Practice Agreement, Docket No. 16–033, remains pending before the MBRM. GX 3, at 2 (''This Agreement will remain in effect until the . . . [MBRM] determines that this . . . [Mass. Accepted Voluntary No-Practice Agreement] should be modified or terminated; or until the . . . [MBRM] takes other action against . . . [Respondent's] license to practice medicine; or until the . . . [MBRM] takes final action on the above-

[15] Just as materially falsifying an application provides a basis for revoking an existing registration without proof of any other misconduct, *see* 21 U.S.C. 824(a)(1), it also provides an independent and adequate ground for denying an application. *Richard J. Settles, D.O.,* 81 FR at 64,945; *Arthur H. Bell, D.O.,* 80 FR at 50,037; *The Lawsons, Inc., t/a The Medicine Shoppe Pharmacy,* 72 FR at 74,338; *Bobby Watts, M.D.,* 58 FR 46,995, 46,995 (1993); *Shannon L. Gallentine, D.P.M.,* 76 FR 45,864, 45,865 (2011).

referenced matter.''). In addition, also already discussed, a clear indication of the significance of the Mass. Accepted Voluntary No-Practice Agreement is the document's sixth paragraph that ''[a]ny violation . . . shall be *prima facie* evidence for immediate summary suspension'' of Respondent's medical license. *Id.* [italics added]. Thus, Respondent's false submission implicates the first factor that I am statutorily mandated to consider. *John O. Dimowo, M.D.,* 85 FR 15,800, 15,809–10 (2020).

The second section 303(f) factor is the ''applicant's experience in dispensing . . . controlled substances.'' 21 U.S.C. 823(f)(2). I already found that DEA and Massachusetts law enforcement were investigating an allegation that Respondent unlawfully issued controlled substance prescriptions when he was incarcerated in Kentucky. Tr. 20–40. Further, the unrefuted record testimony is that Respondent entered into the Mass. Accepted Voluntary No-Practice Agreement after multiple interactions with the MBRM Investigator regarding this allegation. *Id.* at 93–97, 155–56; GX 5. The fact that this unrefuted record evidence includes unproven allegations does not change the salient point. The CSA requires me to consider Respondent's experience in dispensing controlled substances. Respondent's alleged controlled substance dispensing while incarcerated in Kentucky, which irrefutably led to the Mass. Accepted Voluntary No-Practice Agreement, implicates this CSA-mandated factor regardless of the weight, if any, I give it. The falsity Respondent submitted in his application deprived me of information potentially relevant to factor two, and, therefore, I was unable to carry out my CSA-mandated responsibilities.

The analysis of the same unrefuted record evidence under factor four (compliance with applicable state, federal, and local laws relating to controlled substances) leads to the same conclusion. Respondent's submission of a falsified application deprived me of information potentially relevant to factor four, and, therefore, I was unable to carry out my CSA-mandated responsibilities.

In sum, the falsity Respondent submitted relates to three of section 303(f)'s five factors. Based on an analysis of the CSA, Respondent's falsity directly implicates my statutorily mandated analysis and decision by depriving me of legally relevant facts. *Escobar,* 136 S. Ct. at 2002 (''Under any understanding of the concept, materiality 'look[s] to the effect on the likely or actual behavior of the recipient of the alleged misrepresentation.'''). Consequently, I must find, based on the CSA and the analysis underlying multiple Supreme Court decisions involving materiality, that the falsity Respondent submitted was material.[16]

B. Respondent's Arguments and Exceptions

Respondent posited many arguments during the administrative hearing and in exceptions to the RD. Some have already been addressed. Others are addressed below.

Respondent argues that a recent Supreme Court decision's treatment of ''materiality'' in a False Claims Act case is ''particularly unfavorable to the Government's attempt to prove materiality in light of DEA's informed inaction.'' ALJX 30, at 16 (citing *Escobar*). According to Respondent, ''[i]n terms of . . . [False Claims Act] liability, the [Supreme] Court held that evidence that the government knew about an alleged regulatory violation that caused a claim submitted to the government to be false yet continued to pay those claims was 'very strong evidence' that the underlying conduct was not material.'' *Id.* at 17. Since the Supreme Court ''utilized the same definition of 'material' set forth by the [Supreme] Court in *Kungys,*'' Respondent argues, the Government ''cannot prevail in light of its inaction despite knowledge of the alleged past conduct underlying the indictment.'' *Id.*

The RD rejects this argument, as do I. RD, at 16–17.

First, Respondent's reasoning, based on the appearance of the same root word, ''material,'' for applying *Escobar's* False Claims Act analysis to the CSA is not convincing. The Supreme Court in *Escobar* ties its analysis to ''other federal fraud statutes'' and to the common law.[17] It connects its discussion of federal fraud statutes with the common law by stating that the ''common law could not have conceived of 'fraud' without proof of materiality.'' *Escobar,* 136 S. Ct. at 2002 (citing *Neder* v. *United States,* 527 U.S. 1, 22 (1999). It emphasizes the similarity of the definitions of ''materiality'' in the False Claims Act and in the common law by stating that ''[w]e need not decide'' whether the False Claims Act's ''materiality requirement is governed by . . . [the False Claims Act] or derived directly from the common law.'' *Escobar,* 136 S. Ct. at 2002. Thus, Respondent's invitation that I apply the Supreme Court's *Escobar* analysis of the False Claims Act to the CSA more broadly than only to the definition of ''materiality'' goes beyond the clear boundaries of *Escobar* and is without merit.[18] As the RD states, ''Whether the

[16] As the parties stipulated, Respondent's false submission to DEA appeared in the registration renewal application he submitted on February 7, 2017. ALJX 11, at 2 (Joint Stipulation No. 5), *supra* note 1. That renewal application was granted. Subsequently, DEA identified the falsity and issued the OSC seeking revocation based of 21 U.S.C. 824(a)(1).

The liability questions implicate the public interest factors of 21 U.S.C. 823(f). *Infra* note 30. A false response to a liability question is, by definition, therefore, always ''material'' and always a reason why I may deny an initial or subsequent application under section 303(f). According to the terms of section 303(f), my ultimate decision of whether to deny such a materially false application shall be based on my determination of whether ''issuance of such registration or modification would be consistent with the public interest'' as determined by my consideration of that section's five factors.

When, however, as here, the Agency does not identify the material falsity until after the registration or modification is granted, the determination of the appropriate sanction, if any, is based on the relevant facts and circumstances. 21 U.S.C. 824(a)(1).

[17] It explicitly mentions mail, bank, and wire fraud statutes, *Neder* v. *United States,* 527 U.S. 1 (1999), and fraudulent statements to immigration officials, *Kungys* v. *United States,* 485 U.S. 759 (1988). *Escobar,* 136 S. Ct. at 2002.

[18] Likewise, in conjunction with the Court's statement in *Maslenjak,* the Court's more recent naturalization decision, that the naturalization process ''is set up to provide little or no room for subjective preferences,'' I note that the CSA differs from the naturalization process in that respect. *Maslenjak,* 137 S. Ct. at 1928 (concluding that ''the question of what any individual decisionmaker might have done with accurate information is beside the point'' because the ''entire system . . . is set up to provide little or no room for subjective preferences''). While the CSA establishes parameters for issuing and terminating registrations, the final registration-related decision, such as granting or denying a registration, and continuing, suspending, or revoking a registration, is left to the reviewable discretion of the Attorney General. 21 U.S.C. 823 and 824 (using the word ''may'' in provisions to confer discretion on the Attorney General regarding the granting, denying, continuing, suspending, and revoking of practitioner registrations). The difference between the objective naturalization process and the discretionary CSA process, however, does not detract from the usefulness of the Supreme Court's decisions on the meaning of ''materially falsified'' under section 304(a)(1).

Although the existence of a factor in 823(f) is not, in and of itself, disqualifying as a fact could be in the naturalization process, the CSA states clearly that ''in determining the public interest, the following factors *shall* be considered.'' 21 U.S.C. 823(f) (emphasis added). Depriving me of accurate information that I am statutorily required to consider interferes with my responsibility to consider the public interest factors. The clear intent of the CSA is that applicants and registrants shall provide me with accurate information for my analysis under section 303, and that a falsification of any information concerning a section 303 factor thwarts my ability to assess the public interest as the CSA requires me to do, and is therefore necessarily material to my decision on the application. In light of the discretion afforded me in the CSA, it would make little sense to impose a ''but for'' test or even a ''more likely than not'' test on the effect of a false statement. After all, I cannot analyze the five factors without accurate information.

Government decides to pay a [contract] claim despite knowledge that certain conditions of payment are not satisfied simply does not implicate the same considerations as the decision of the Government to delay (or even to forgo) bringing . . . [a CSA] action against a . . . [registrant] despite knowledge of alleged conduct which could support a sanction.'' RD, at 16–17. I reject Respondent's invitation to equate the CSA with the False Claims Act. I agree with the RD that these two statutes share no commonality that would legally support, let alone require, such a correlation.

Second, Respondent's argument takes *Escobar* beyond the parameters of the Supreme Court's opinion. Respondent argues that the Government ''*cannot prevail* in light of its inaction, despite knowledge of the alleged past conduct underlying the indictment.'' ALJX 30, at 17 [emphasis added]. The Supreme Court, however, merely warned that ''if the Government pays a particular claim in full despite its actual knowledge that certain requirements were violated, that *is very strong evidence* that those requirements are not material.'' *Escobar,* 136 S. Ct. at 2003 [emphasis added]. Respondent's argument that the Government ''cannot prevail in light of its [prior] inaction'' against Respondent, is not only inapposite, it also carries the *Escobar* decision beyond the Court's clear terms that inaction is ''very strong evidence,'' but not dispositive.

Third, Respondent's argument incorrectly assumes that no crime or violation has occurred unless law enforcement has initiated a criminal prosecution or a civil or administrative enforcement action. According to Respondent, ''[i]f [Respondent's] alleged past conduct were material, DEA could have brought an order to show cause against . . . [him] based on this conduct at some point over the last two years. Instead, DEA has allowed . . . [Respondent] to maintain his COR.'' ALJX 30, at 17. Respondent's position is untenable.

Section 304 of the CSA states that the Attorney General ''may'' revoke or suspend a registration. 21 U.S.C. 824(a). The discretion the CSA affords the Attorney General regarding his initiation of a revocation or suspension enforcement action is unfettered.[19] According to the Supreme Court, in situations such as the one presented by the CSA, ''an agency's decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency's absolute discretion.'' *Heckler* v. *Chaney,* 470 U.S. 821, 831 (1985); *see also* 5 U.S.C. 701(a) and *Heckler* v. *Chaney,* 470 U.S. at 831–32 (discussing reasons why there is generally no judicial review of agency decisions not to enforce).

Fourth, Agency decisions have addressed section 304(a)(1), including the meaning of ''materially,'' on multiple past occasions. Relying on those interpretations of the CSA, as opposed to taking the novel approach that Respondent proposes, is important to the Agency's mission.[20]

An Agency decision from 1986 noted that the Agency ''processes thousands of practitioner registrations each year'' and that there is ''no feasible method . . . [for the Agency] to make an investigation into the accuracy of each application submitted.'' *William M. Knarr, D.O.,* 51 FR 2772, 2773 (1986) (noting that the falsifications were discovered by accident). This decision and others interpreting section 304(a)(1) concluded that the submission of falsified applications is a serious offense that cannot be tolerated because it renders the Agency ''unable to meaningfully pass on the fitness of the applicant.'' *Id.; see also Carl E. Darby, M.D.,* 53 FR 51,330, 51,331 (1988); *Ronald H. Futch, M.D.,* 53 FR 38,990, 38,991 (1988). The questions on the registration application ''serve a purpose which cannot be overlooked by the Administrator'' and, had the applicant submitted accurate responses, ''an investigation could have taken place.'' *Ezzat E. Majd Pour, M.D.,* 55 FR 47,547, 47,548 (1990) (finding finalized or pending medical license revocation/suspension proceedings in three states even though applicant provided a ''no'' answer to the relevant liability question on the application). In carrying out its statutory mission to authorize the dispensing of controlled substances in the public interest, the Agency must be able to rely on the truthfulness of applicants' submissions. *Anne D. DeBlanco, M.D.,* 62 FR 36,844, 36,845 (1997) (''Since DEA must rely on the truthfulness of information supplied by applicants in registering them to handle controlled substances, falsification cannot be tolerated.''); *Leonel Tano, M.D.,* 62 FR 22,968, 22,972 (1997) (same); *Linwood T. Townsend, D.D.S.,* 59 FR 32,224, 32,225 (1994) (same); *Bobby Watts, M.D.,* 58 FR 46,995, 46,995 (1993) (same); *Carl E. Darby, M.D.,* 53 FR at 51,331 (same); *Ronald H. Futch, M.D.,* 53 FR at 38,991 (same); *William M. Knarr, D.O.,* 51 FR at 2773 (concluding that the Agency ''must rely on the truthfulness of every applicant'').

In the late 1990s, the Agency elaborated on its earlier decisions and distinguished between finding the existence of a material falsification and determining the appropriate sanction. *Martha Hernandez, M.D.* (hereinafter, *Hernandez*) repeated the observation from earlier Agency decisions that ''the Respondent knew, or should have known, that his DEA registration had been revoked.'' 62 FR 61,145, 61,146 (1997) (citing *Bobby Watts, M.D.,* 58 FR at 46,995 and *Herbert J. Robinson, M.D.,* 59 FR 6304, 6304 (1994)). *Hernandez,* though, characterized this observation as a necessary part of the analysis of the existence of a material falsification. According to *Hernandez,* again referencing *Bobby Watts, M.D.* and *Herbert J. Robinson, M.D.,* ''DEA has previously held that in finding that there has been a material falsification of an application, it must be determined that the applicant knew or should have

[19] Section 304(a)(1–5) lists grounds for suspension or revocation of a registration.

[20] To the extent that Agency decisions contain differences in their interpretations or applications of 21 U.S.C. 824(a)(1), I note *F.C.C.* v. *Fox Television Stations, Inc.,* 556 U.S. 502 (2009). In that case, the Supreme Court acknowledged that administrative agency adjudications change course and addressed how an agency may do so and continue to pass muster on appellate review under the Administrative Procedure Act (hereinafter, APA). First, the Supreme Court pointed out that the APA does not mention a heightened standard of review for agency adjudication course adjustments. *Id.* at 514. Instead, it stated that the narrow and deferential standard of review of agency adjudications set out in 5 U.S.C. 706 continues to apply. *Id.* at 513–14 (concluding that ''our opinion in *State Farm* neither held nor implied that every agency action representing a policy change must be justified by reasons more substantial than those required to adopt a policy in the first instance.'').

Second, according to the Supreme Court, an agency would ''ordinarily display awareness that it *is* changing position'' and it may not ''depart from a prior policy *sub silentio* or simply disregard rules that are still on the books.'' *Id.* at 515. Further, an agency must ''show that there are good reasons for the new policy'' but need not ''demonstrate to a court's satisfaction that the reasons for the new policy are *better* than the reasons for the old one; it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency *believes* it to be better.'' *Id.* (emphases in original). Finally, the Supreme Court had warned in an earlier decision that an ''irrational departure'' from agency policy, ''as opposed to an avowed alteration of it,'' could be overturned as arbitrary and capricious, or an abuse of discretion. *I.N.S.* v. *Yueh-Shaio Yang,* 519 U.S. 26, 32 (1996).

Thus, while my analysis of Agency decisions' legal interpretations over time of ''materially falsified'' shows substantial uniformity, I note a few instances of an arguable degree of departure. The departure may be attributable to particular or unusual facts, to my predecessor's perspective on the degree of transparency or candor required in the specific interaction with the Agency at issue, or the like. While my legal analysis of the CSA's provision addressing material falsification may not be the agency adjudication course adjustment the Supreme Court contemplated in *Fox Television,* I am following the Court's *Fox Television* parameters as I carry out my CSA-related responsibilities. The ramifications of my doing so include increasing transparency and facilitating any appellate review.

known that the response given to the liability question was false.'' 62 FR at 61,146. The Agency then ''conclude[d] that there is no question that . . . [respondent] materially falsified two of her applications for DEA registration'' and stated that this was ''extremely troubling since DEA relies on accurate information being submitted by its applicants.'' [21] *Id.* at 61,148.

Admitting to the inaccuracy of the answers on her DEA application, the *Hernandez* respondent argued that she submitted no ''materially'' false statement, that she had no intent to deceive or mislead DEA, that her underlying misconduct was not related to controlled substances, and that she responded correctly to similar questions on a state application after someone explained the proper way to interpret the application question. *Id.* at 61,146. The Agency did not fully embrace her arguments. In addition to concluding that the falsifications were material, *Hernandez* made clear that a misinterpretation of the application does ''not relieve [respondent] . . . of her responsibility to carefully read the question and to honestly answer all parts of the question.'' *Id.* at 61,147. While the decision may be interpreted to agree with the *Hernandez* respondent that she did not intend to deceive DEA, the decision states that ''negligence and carelessness in completing an application could be a sufficient reason to revoke a registration.'' *Id.* Regarding the *Hernandez* respondent's argument that the falsification did not involve controlled substances, the Agency agreed with the Government that it had ''in fact revoked registrations in the past based upon the material falsification of an application that was not related to the mishandling of controlled substances.'' *Id.* at 61,148 (citing *Ezzat E. Majd Pour, M.D.*).

Hernandez, then, drew the distinction between finding a material falsification and the next inquiry—whether ''revocation is the appropriate sanction in light of the facts and circumstances of this case.'' *Id.* The decision appears to credit as ''credible,'' while also stating it is ''clearly an incorrect interpretation,'' the *Hernandez* respondent's explanation for the falsity. *Id.* Further, the decision calls ''troubl[ing]'' the *Hernandez* respondent's ''carelessness in failing to carefully read the question on the applications.'' *Id.* Nevertheless, the decision finds ''significant'' that, prior to the issuance of the OSC, the *Hernandez* respondent ''answered a similar liability question correctly on her . . . Illinois application . . . after discussing the matter with an Illinois official.'' *Id.* The decision notes that the Illinois Department of Professional Regulation ''has seen fit to allow . . . [her] to continue to practice medicine as long as she continues to repay her loan.'' *Id.* Thus, the decision concludes, the state medical boards' handling of the *Hernandez* respondent's student loan repayment challenges was ''relevant, although not dispositive, in determining the appropriate sanction.'' *Id.* After considering all of the facts and circumstances, the decision concludes that ''revocation would be too severe a sanction given the facts and circumstances of this case.'' *Id.* at 61,148. Instead, it reprimands the *Hernandez* respondent ''for her failure to properly complete her applications for registration,'' and required her, for three years, ''to submit to the DEA . . . , on an annual basis, documentation from . . . [the] medical licensing authorities certifying that her medical licenses remain in good standing . . . and that there is no impediment to her handling controlled substances at the state level.'' *Id.*

Some Agency decisions incorporate both pre-*Hernandez* and *Hernandez* analyses.[22] Other Agency decisions apply the material falsification elaborations and distinctions articulated in *Hernandez,* and continue developing the application of 21 U.S.C. 824(a)(1).[23] For example, in 2005, the Agency confirmed the ''knew or should have known'' determination for whether there had been a ''material falsification'' and the consideration of all the facts and circumstances in determining the appropriate sanction. *Felix K. Prakasam, M.D.,* 70 FR 33,203, 33,205–06 (2005). When faced with a respondent whose ''explanations for the misstatements and his continued insistence that his answers were correct are disingenuous at best,'' the Agency bluntly stated that respondent's answers were not accurate. *Id.* The Agency then stated clearly what it had introduced in a 1993 decision—its ''concern regarding Respondent's on-going refusal or inability to acknowledge a registrant's responsibility to provide forthright and complete information to DEA, when required to do so as a matter of law or regulation. This attitude . . . does not auger well for his future compliance with the responsibilities of a registrant.'' [24] *Id.* Thus, the Agency revoked respondent's registrations based on a finding of a violation of 21 U.S.C. 824(a)(1) and respondent's lack of legally mandated forthrightness and transparency. *Id.*

The Agency continued to develop the *Felix K. Prakasam, M.D.* forthrightness

[21] The falsifications in that case related to the doctor's inability to repay her student loan. The repayment issue had ramifications for her medical licenses in Illinois and Indiana. The *Hernandez* respondent admitted that her responses to the application's liability questions were incorrect. 62 FR at 61,146.

[22] *See, e.g., VI Pharmacy, Rushdi Z. Salem,* 69 FR 5584 (2004) (invoking the ''knew or should have known'' determination, stating that falsification cannot be tolerated since DEA must rely on the truthfulness of the information supplied by applicants in registering them, and evaluating the ''totality of the circumstances'' in determining the appropriate sanction); *Thomas G. Easter II, M.D.,* 69 FR 5579 (2004) (citing *Barry H. Brooks, M.D.* concerning the ''knew or should have known'' determination, reiterating that answers to liability questions are always material because DEA relies on them to determine whether it is necessary to investigate the application, stating that falsification cannot be tolerated since DEA must rely on the truthfulness of the information supplied by applicants in registering them, and evaluating the ''totality of the circumstances'' in determining the appropriate sanction); *Barry H. Brooks, M.D.,* 66 FR 18,305 (2001) (recounting testimony explaining how DEA uses the liability questions to evaluate applications, noting the ''knew or should have known'' determination, rejecting the argument that the omission of relevant information from an application is not material if DEA already knows it, reiterating that answers to liability questions are always material because DEA relies on them to determine whether it is necessary to investigate the application, asserting that falsification cannot be tolerated, and evaluating the ''totality of the circumstances'' in determining the appropriate sanction).

[23] *See, e.g., Theodore Neujahr, D.V.M.,* 64 FR 72,362 (1999) (noting *Hernandez* and the ''knew or should have known'' test to determine materiality); *KK Pharmacy,* 64 FR 49,507 (1999) (same); *Saihb S. Halil, M.D.,* 64 FR 33,319 (1999) (reiterating that the application signatory is responsible for the truthfulness of the application's contents, even if he did not personally complete it, and relying on the ''knew or should have known'' determination, no state authority, and admitted lack of knowledge of controlled substance regulations to revoke the registration); *Anthony D. Funches,* 64 FR 14,267 (1999) (finding a material falsification not based on intentional or negligent behavior, and granting the distributor registration subject to applicant's acceptance of inspection concessions); *John J. Cienki, M.D.,* 63 FR 52,293 (1998) (reiterating that the applicant ''knew or should have known'' about the falsity of the response for a material falsification to exist); *Samuel Arnold, D.D.S.,* 63 FR 8687 (1998) (stating that the applicant ''knew or should have known'' about the falsity of the response for there to be a material falsification, and that a consideration of all the facts and circumstances of the case determines the appropriate remedy when a material falsification exists); *Richard S. Wagner, M.D.,* 63 FR 6771 (1998) (applying the ''knew or should have known'' determination, concluding that intent to deceive does not limit the sanction of revocation, and highlighting the extreme importance of truthful answers since they alert DEA as to whether further investigation is necessary).

[24] In *Kuen H. Chen, M.D.,* the Agency characterized, and adopted in its entirety, the Administrative Law Judge's recommendation. 58 FR 65,401 (1993). It did not attach the recommendation. The recommendation, as described in the Agency decision, found that respondent's ''cavalier attitude toward the importance of accurately executing the application suggests a lack of concern for the responsibilities inherent in a DEA registration.'' *Id.* at 65,402.

and transparency analysis for 21 U.S.C. 824(a)(1) in *Peter A. Ahles, M.D.* According to that decision, ''it is clear'' and ''indisputable'' that respondent materially falsified his application by not disclosing that California placed his medical license on probation three times. 71 FR at 50,098. After finding that respondent materially falsified his application, the decision, citing the Sixth Circuit, stated that the Agency considers candor to be an ''important factor when assessing whether a physician's registration is consistent with the public interest'' and, therefore, ''falsification cannot be tolerated.'' *Id.* at 50,099 (citing *Hoxie* v. *Drug Enf't Admin.,* 419 F.3d at 483).

My analysis shows that the approach to section 304(a)(1) taken by most past Agency decisions aligns with the instruction *Kungys* and its progeny provide concerning the meaning of ''material'' absent a definition in the relevant statute.[25] As already discussed, the approach of *Kungys* and its progeny to materiality is consistent with the CSA.[26] The Supreme Court's interpretation and analysis rest on the ''most common formulation . . . that a concealment or misrepresentation is material if it 'has a natural tendency to influence, or was capable of influencing, the decision of' the decisionmaking body to which it was addressed.'' 485 U.S. at 770. The Court emphasized that the test for materiality ''has never been'' that the ''misrepresentation or concealment would *more likely than not* have produced an erroneous decision, or even that it would *more likely than not* have triggered an investigation.'' [27] *Id.* at 771 [emphases in original]. According to the Court, the materiality test ''must be met, of course, by evidence that is clear, unequivocal, and convincing.'' *Id.* at 772.

Thus, following the Supreme Court, I conclude that the falsification of any of the liability questions is ''material'' under 21 U.S.C. 824(a)(1). My conclusion flows directly from the fact that each of the liability questions is connected to at least one of section 303(f) factors that, according to the CSA, I ''shall'' consider as I analyze whether issuing a registration ''would be inconsistent with the public interest.'' [28] 21 U.S.C. 823(f). I am unable to discharge the responsibilities of the CSA every time I am given false information in response to a liability question. Thus, each falsification of a liability question has a natural tendency to influence, or is capable of influencing my decision and is therefore material.

After finding the existence of a material falsification, I then determine the appropriate sanction. My determination involves considering all the facts and circumstances before me.

This *Kungys/Maslenjak*–based two-step analysis is consistent with the provisions of the CSA. It is consistent with the statutory requirements under section 303 (''the following factors *shall* be considered'' emphasis added), and the discretion afforded under section 303(f) (''*may* deny an application'' emphasis added) regarding whether to deny a registration application or modification. In addition, my analysis and conclusion that this Respondent submitted a materially false renewal application are in line with the weight of past Agency decisions.[29] Some of the

[25] Indeed, in 2007, an Agency decision relied on *Kungys* for the meaning of ''material.'' *Samuel S. Jackson, D.D.S.,* 72 FR 23,848 (2007). In that Decision, the Agency determined that the Government's evidence was insufficient to establish a violation of 21 U.S.C. 824(a)(1).

[26] Regarding the different substantive legal contexts in which ''material'' appears, the Supreme Court stated that a statute revoking citizenship and a criminal statute whose penalties are a fine or imprisonment are not ''so different as to justify adoption of a different standard.'' *Kungys,* 485 U.S. at 770. According to the Court, ''[w]here Congress uses terms that have accumulated settled meaning under either equity or the common law, a court must infer, unless the statute otherwise dictates, that Congress means to incorporate the established meaning of these terms.'' *Id.* My review of Supreme Court cases citing *Kungys* shows that decision cited in a variety of cases, including the False Claims Act (*Escobar,* 136 S. Ct. 1989 (2016)), a false statement in conjunction with a firearm sale (*Abramski* v. *United States,* 573 U.S. 169 (2014)), mail and tax fraud (*Neder* v. *United States,* 527 U.S. 1 (1999)), and a false statement to federally insured financial institutions (*United States* v. *Wells,* 519 U.S. 482 (1997)). Thus, the Supreme Court instructs on the meaning of ''material'' in situations when ''material'' is not defined in the statute at issue.

[27] Citing this portion of *Kungys,* some Agency decisions explicitly step away from pre-*Kungys* Agency decisions that found a false answer to a liability question ''always material'' due to DEA's reliance on the answers to those questions. *See, e.g., Mark William Andrew Holder, M.D.,* 80 FR 71,618 n.19 (2015). I, however, see no inevitable conflict between these pre-*Kungys* Agency decisions and *Kungys* and its progeny.

[28] The liability questions on the DEA–225 (04–12), ''Application for Registration,'' (Approved OMB NO 1117–0012, Form Expires: 9/30/2021) are (1) ''Has the applicant ever been convicted of a crime in connection with controlled substance(s) under state or federal law, or been excluded or directed to be excluded from participation in a medicare or state health care program, or is any such action pending?'' (*see* 21 U.S.C. 823(f)(2–4); *see also* § 824(a)(2) and (5)); (2) ''Has the applicant ever surrendered (for cause) or had a federal controlled substance registration revoked, suspended, restricted, or denied, or is any such action pending?'' (*see* 21 U.S.C. 823(f)(2–5); *see also* § 824); (3) ''Has the applicant ever surrendered (for cause) or had a state professional license or controlled substance registration revoked, suspended, denied, restricted, or placed on probation, or is any such action pending?'' (*see* 21 U.S.C. 823(f)(1), (3), and (4); *see also* § 824(a)(3)); and (4) ''If the applicant is a corporation (other than a corporation whose stock is owned and traded by the public), association, partnership, or pharmacy, has any officer, partner, stockholder, or proprietor been convicted of a crime in connection with controlled substance(s) under state or federal law, or ever surrendered, for cause, or had a federal controlled substance registration revoked, suspended, restricted, denied, or ever had a state professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation, or is any such action pending?'' (*see* 21 U.S.C. 823(f)(1 through 5); *see also* §§ 824 and 824(a)(2) and (3)) [emphases in original].

[29] *See, e.g., Zelideh I. Cordova-Velazco, M.D.,* 83 FR 62,902 (2018) (citing both the ''knew or should have known'' determination and *Kungys* regarding material falsification allegations, and concluding that applicant's now-current state license is ''simply not relevant in terms of resolving'' the material falsification allegation); *Richard Jay Blackburn, D.O.,* 82 FR 18,669 (2017) (citing *Kungys* and denying the application without a sanction analysis because the applicant had not opposed the Government's motion for summary disposition, let alone offered an explanation for the falsification or mitigating evidence); *Wesley Pope, M.D.,* 82 FR 14,944 (2017) (emphasizing an Agency decision that had applied the ''knew or should have known'' determination); *Daniel A. Glick, D.D.S.,* 80 FR 74,800 (2015) (citing *Kungys,* stating that the ''correct analysis depends on whether the registrant knew or should have known that he or she submitted a false application,'' and considering the ''totality of the circumstances'' in determining the sanction); *Mark William Andrew Holder, M.D.,* 80 FR 71,618 (2015) (finding a clear, intentional, and material falsification because applicant did not want DEA to discover that he was a drug abuser); *Arthur H. Bell, D.O.,* 80 FR 50,035 (2015) (citing *Kungys,* concluding that applicant's failure to disclose his surrender of his DEA registration ''for cause'' was materially false and intentional, and finding that applicant failed to produce sufficient evidence showing why he should be entrusted with a new registration); *JM Pharmacy Group, Inc., d/b/a Farmacia Nueva and Best Pharma Corp.,* 80 FR 28,667 (2015) (citing both the ''knew or should have known'' determination and *Kungys* regarding material falsification allegations, and concluding that applicant ''clearly knew'' that he ''(1) [h]ad surrendered his registrations, (2) had done so in response to allegations that his pharmacies had committed violations of the CSA, and (3) did so to avoid proceedings to revoke the registrations, [meaning] he also clearly knew that he had surrendered ''for cause''); *Jose G. Zavaleta, M.D.,* 78 FR 27,431 (2013) (citing both the ''knew or should have known'' determination and *Kungys* regarding material falsification allegations); *Richard A. Herbert, M.D.,* 76 FR 53,942 (2011) (citing both the ''knew or should have known'' determination and *Kungys* regarding material falsification allegations, citing *Hoxie* about the importance of candor in the assessment of whether a registration is in the public interest, and explicitly tying the falsification to two 21 U.S.C. 823(f) factors); *Shannon L. Gallentine, D.P.M.,* 76 FR 45,864 (2011) (citing *Kungys* regarding material falsification allegations and explaining that ''[g]iven the circumstances of the surrender, during which . . . [applicant] was confronted with questions by the Investigators about his prescribing practices and lack of documentation to justify his prescriptions, . . . [applicant] cannot claim that he did not surrender his registration for cause''); *Mark De La Lama, P.A.,* 76 FR 20,011 (2011) (citing *Kungys* regarding material falsification allegations); *Gilbert Eugene Johnson, M.D.,* 75 FR 65,663 (2010) (finding that registrant knew his answers were false, citing *Kungys,* and stating that the false answers were material because the CSA requires consideration of the matters registrant falsified); *Alvin Darby, M.D.,* 75 FR 26,993 (2010) (citing both ''knew or should have known'' and *Kungys* regarding material falsification allegations); *Craig H. Bammer, D.O.,* 73 FR 34,327 (2008) (citing *Kungys* on the meaning of

cases that Respondent urges me to follow are not.[30]

In sum, I carefully considered all of Respondent's arguments and conclude, based on

clear, unequivocal, and convincing record evidence, that Respondent materially falsified his registration renewal application.

IV. Sanction

Where, as here, the Government has established by clear, unequivocal, and convincing evidence that a respondent materially falsified his registration renewal application, the respondent must then ''present[ ] sufficient mitigating evidence'' to show why he can be entrusted with a registration. *Garrett Howard Smith, M.D.,* 83 FR 18,882, 18,910 (2018). Further, as past performance is the best predictor of future performance, Agency decisions require the respondent unequivocally to accept responsibility for his actions and demonstrate that he will not engage in future misconduct. *ALRA Labs, Inc.* v. *Drug Enf't Admin.,* 54 F.3d 450, 452 (7th Cir. 1995); *Jayam Krishna-Iyer, M.D.,* 74 FR 459, 463 (2009) (collecting cases); *Jeffrey Stein, M.D.,* 84 FR 46,968, 46,972–73 (2019). In addition, a registrant's candor during the investigation and hearing has been an important factor in determining acceptance of responsibility and the appropriate sanction. *Garrett Howard Smith, M.D.,* 83 FR at 18,910 (collecting cases). The Agency has also considered the need to deter similar acts by the respondent and by the community of registrants. *Id.* Consistent with past Agency decisions, I consider the totality of the facts and circumstances before me to determine the appropriate sanction. *See, e.g., Hernandez,* 62 FR at 61,147–48 (finding material falsification, but denying the Government's request for revocation as ''too severe'' given the facts and circumstances of the case).

Respondent's misconduct proven by the record evidence is one falsity on one application. However, the falsity was not the result of confusion or inadvertence, but a deliberate attempt to hide the existence of the Mass. Accepted Voluntary No-Practice Agreement. RD, at 20. The record evidence regarding that falsity clearly demonstrates to me that Respondent does not take his responsibility of candor to the Agency seriously. *Id.* Accomplishing the scope of DEA's law enforcement responsibilities would be extraordinarily difficult if the Agency could not rely on the candor of applicants and those in the regulated community. *Id.*

I agree with the Chief ALJ that Respondent, through counsel, explicitly stated that Respondent did not accept responsibility and did not offer any remedial measures during his testimony.[31] *Id.* at 18; Tr. 179. In his Posthearing Brief, Respondent reiterated that he does not prescribe controlled substances in his current position, yet needs a registration to continue to qualify for that position. ALJX 30, at 23; Tr. 92, 105. The Posthearing Brief argues that revoking Respondent's registration would deprive the low-income and homeless patients he currently serves of his medical services.[32] ALJX 30, at 23. This argument is not consistent with recent Agency decisions concerning community impact evidence. I decline to accept Respondent's community impact argument.

As the Chief ALJ concluded, Respondent acknowledged no deficiency and offered no plan to conform his future conduct. RD, at 19. ''In his view,'' the RD observes, Respondent ''did nothing wrong and would presumably enter the same false response on a future renewal application if faced with like circumstances.'' *Id.* In this situation, revocation is appropriate to avoid another proceeding charging material falsification ''because the Respondent believes his conduct to have been appropriate.'' *Id.*

a ''material'' false statement and *Hoxie* on ''candor''); *The Lawsons, Inc., t/a The Medicine Shoppe Pharmacy,* 72 FR 74,334 (2007) (citing both the ''knew or should have known'' determination and *Kungys* regarding material falsification allegations, and citing *Hoxie* about the importance of candor in the assessment of a registration application); *but see Michel P. Toret, M.D.,* 82 FR 60,041 (2017) (ruling that a Voluntary Surrender Form alone, indicating nothing about applicant's failure to comply with any controlled substance requirement, is an insufficient basis to find a material falsification); *Richard D. Vitalis, D.O.,* 79 FR 68,701 (2014) (citing *Kungys,* finding three ''clearly false, and knowingly so'' answers regarding the suspension of his state medical license based on his history of alcohol dependency, and concluding that those false answers were not material because alcohol dependency is not actionable misconduct under the CSA); *Hoi Y. Kam, M.D.,* 78 FR 62,694 (2013) (citing *Kungys,* finding a false statement, stating that the ''relevant decision for assessing whether a false statement is material is the Agency's decision as to whether an applicant is entitled to be registered,'' and concluding the falsity was not material because the state license was no longer revoked and ''the Government offers no argument, let alone any evidence, that the truthful disclosure of the State's action against his medical license would have led it to evidence in the exclusion proceeding that Respondent violated any state rules or regulations regarding controlled substances and thus would have supported the denial of his application''); *Scott C. Bickman, M.D.,* 76 FR 17,694, 17,701 (2011) (citing both the ''knew or should have known'' determination and *Kungys* regarding material falsification allegations, citing *Hoxie* about the importance of candor in the assessment of a registration application and, citing *Gonzales* v. *Oregon,* granting the renewal application because the Government's evidence did not establish that ''Respondent's failure to disclose that the State Board had placed him on probation was capable of influencing the decision to grant his renewal application,'' because the probation was for medical malpractice and the CSA does not state that medical malpractice is a disqualification for a registration).

[30] *See, e.g.,* Respondent's citation to, and reliance on, the results in *Hoi Y. Kam, M.D.,* 78 FR 62,694 (2013) and *Scott C. Bickman, M.D.,* 76 FR 17,694, 17,701 (2011). ALJX 30, at 14.

Respondent also argues that ''the Government must prove that the overall intent of the application was to deceive DEA.'' ALJX 30, at 9 (citing *Daniel A. Glick, D.D.S.,* 80 FR 74,800, 74,808 (2015) and *Samuel S. Jackson, D.D.S.,* 72 FR 23,848, 23,852–53 (2007)).

According to *Daniel A. Glick, D.D.S.,* 80 FR at 74,808, ''the correct analysis depends on whether the registrant knew or should have known that he or she submitted a false application,'' and ''[a]lthough even an unintentional falsification can serve as a basis for adverse action regarding a registration, lack of intent to deceive and evidence that the falsification was not intentional or negligent are all relevant considerations.'' Similarly, according to *Samuel S. Jackson, D.D.S.,* 63 FR at 23,852, citing the ''knew or should have known'' determination, Agency decisions ''make clear that culpability short of intentional falsification is actionable.''

Thus, both Decisions Respondent cites, *Daniel A. Glick, D.D.S.* and *Samuel S. Jackson, D.D.S.,* to support his argument state that a falsification need not be intentional to be actionable. I reject Respondent's argument that the Government must prove an ''overall intent to deceive DEA.'' An intent to deceive, however, has been considered as part of the totality of the circumstances when determining the appropriate sanction in the face of a material falsification. *See, e.g., Daniel A. Glick, D.D.S.,* 80 FR at 74,808; *Anthony D. Funches,* 64 FR at 14,268–69.

[31] Respondent's proposed Corrective Action Plan would have ''counsel review all registration applications [for the next five years] prior to submission to DEA to ensure accuracy and compliance with DEA's application disclosure requirements,'' and to take two, specified continuing medical education courses concerning opioids.

[32] Respondent also argued that ''the sanction of revocation . . . would deviate from the Agency's decisions in *Funches* and *Hernandez.*'' ALJX 30, at 23. Both *Funches* and *Hernandez,* however, are inapposite.

In *Funches,* the application was for a registration as a retail distributor of list I chemicals. 64 FR at 14,267. The applicant indisputably operated his business in a ''responsible manner'' and credibly testified that the falsification was neither intentional nor negligent. *Id.* at 14,268. The falsification concerned a guilty plea twenty years before to a misdemeanor whose sentence was subsequently suspended, and ''involvement'' in a cocaine transaction over twenty years before. *Id.* at 14,267–69.

Hernandez, already discussed in detail, concerned a respondent's student loan repayment challenges and the state licensing authority's decision to allow the respondent to retain her medical license as long as she continued to repay her student loans. 62 FR at 61,147. The decision appeared to credit as ''credible,'' while also calling it ''clearly an erroneous interpretation,'' the respondent's explanation for the falsity. *Id.*

I agree with the Chief ALJ that ''[c]onsiderations of specific and general deterrence militate in favor of revocation.'' *Id.* Failing to sanction Respondent in this case would send a message to Respondent and others in the registrant community that Respondent is vindicated, and that his false answer to Liability Question No. 3 is the ''benchmark of exactly how candid . . . [one] ever needs to be in providing information to DEA.'' *Id.* at 19–20. I decline to create a ''perverse incentive on registrants and applicants to withhold requested application information any time where the withheld information may lead to an adverse decision on a DEA registration or renewal application.'' *Id.* at 20.

I agree with the former Acting Assistant Administrator of the Diversion Control Division, that Respondent's proposed Corrective Action Plan provides no basis for me to discontinue or defer this proceeding. Its insufficiencies include Respondent's failure to accept responsibility, to institute remedial measures, and to convince me to entrust him with a registration. 21 U.S.C. 824(c)(3).

Accordingly, I shall order the sanctions the Government requested, as contained in the Order below.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificates of Registration BS5000411 issued to Frank Joseph Stirlacci, M.D. Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I further hereby deny any pending application of Frank Joseph Stirlacci, M.D., to renew or modify this registration, as well as any other pending application of Frank Joseph Stirlacci, M.D. for registration in Indiana. This Order is effective August 26, 2020.

Timothy J. Shea,

Acting Administrator.

[FR Doc. 2020–16193 Filed 7–24–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0057]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection; Uniform Crime Reporting Data Collection Instrument Pretesting and Burden Estimation Generic Clearance

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until September 25, 2020.

FOR FURTHER INFORMATION CONTACT:

All comments, suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Mrs. Amy C. Blasher, Unit Chief, Federal Bureau of Investigation, CJIS Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; telephone number (304) 625–3566.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Federal Bureau of Investigation, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* UCR Data Collection Instrument Pretesting and Burden Estimation Generic Clearance

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1110–0057. The applicable component within the DOJ is the CJIS Division, in the FBI.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

5. *Primary:* Federal, state, county, local, and tribal law enforcement agencies

Abstract: This clearance provides the UCR Program the ability to conduct pretests which evaluate the validity and reliability of information collection instruments and determine the level of burden state and local agencies have in reporting crime data to the FBI. The Paperwork Reduction Act only allows for nine or fewer respondents in the collection of information, such as pretesting activities. This clearance request expands the pretesting sample to 350 people for each of the twelve information collections administered by the UCR Program. Further, the clearance will allow for a brief 5-minute cost and burden assessment for the 18,000 law enforcement agencies participating in the UCR Program.

An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: UCR Participation Burden Estimation: There are approximately 18,000 law enforcement respondents; calculated estimates indicate five minutes per submission. UCR Form Pretesting: There are approximately 350 respondents; calculated estimates indicate one hour per pretest.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 1,850 hours, annual burden, associated with this information collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: July 22, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–16173 Filed 7–24–20; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0142]

Proposed Extension of Information Collection; Sealing of Abandoned Areas

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. 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. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Sealing of Abandoned Areas.

DATES: All comments must be received on or before September 25, 2020.

ADDRESSES: You may submit comment as follows. Please note that late, untimely filed comments will not be considered.

Electronic Submissions: Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for docket number MSHA–2020–0023. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket, with no changes. Because your comment will be made public, you are responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as your or anyone else's Social Security number or confidential business information.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission.

Written/Paper Submissions: Submit written/paper submissions in the following way:

- *Mail/Hand Delivery:* Mail or visit DOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- MSHA will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Roslyn B. Fontaine, Deputy Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

MSHA's standards for sealing abandoned areas in underground coal mines include requirements addressing the design and construction of new seals and the examination, maintenance, and repair of all seals.

Section 75.335(b) sets forth procedures for the approval of seal design applications.

Section 75.335(c) requires the submission and certification of information for seal installation.

Section 75.336(a)(2) requires the mine operator to evaluate the atmosphere in the sealed area to determine whether sampling through the sampling pipes in seals provides appropriate sampling locations of the sealed area. The mine operator will make an evaluation for each area that has seals.

Section 75.336(c) requires that when a sample is taken from the sealed atmosphere with seals of less than 120 psi and the sample indicates that the oxygen concentration is 10 percent or greater and methane is between 4.5 percent and 17 percent, the mine operator must immediately take an additional sample and then immediately notify the District Manager.

Section 75.336(e) requires a certified person to record each sampling result, including the location of the sampling points and the oxygen and methane concentrations. Also, any hazardous conditions found must be corrected and recorded in accordance with existing section 75.363.

Section 75.337(c)(1)—(c)(5) requires a certified person to perform several tasks during seal construction and repair and certify that the tasks were done in accordance with the approved ventilation plan. In addition, a mine foreman or equivalent mine official must countersign the record.

Section 75.337(d) requires a senior mine management official, such as a mine manager or superintendent, to certify that the construction, installation, and materials used were in accordance with the approved ventilation plan.

Section 75.337(e) requires the mine operator to notify MSHA of certain activities concerning the construction of seals.

Section 75.337(e)(1) requires the mine operator to notify the District Manager between 2 and 14 days prior to commencement of seal construction.

Section 75.337(e)(2) requires the mine operator to notify the District Manager, in writing, within 5 days of completion of a set of seals and provide a copy of the certifications required in section 75.337(d).

Section 75.337(e)(3) requires the mine operator to submit a copy of the quality control test results for seal material properties specified by section 75.335 within 30 days of completion of such tests.

Section 75.337(g)(3) requires the mine operator to label sampling pipes to indicate the location of the sampling point when the mine operator installs more than one sampling pipe through a seal.

Section 75.338(a) requires mine operators to certify that persons conducting sampling were trained in the use of appropriate sampling equipment, techniques, the location of sampling points, the frequency of sampling, the size and condition of sealed areas, and the use of continuous monitoring systems, if applicable, before they conduct sampling, and annually thereafter.

Section 75.338(b) requires mine operators to certify that miners constructing or repairing seals, designated certified persons, and senior mine management officials were trained prior to constructing or repairing a seal and annually thereafter.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Sealing of Abandoned Areas. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to 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.

Background documents related to this information collection request are available at *https://regulations.gov* and in DOL–MSHA located at 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice from the previous collection of information.

III. Current Actions

This information collection request concerns provisions for Sealing of Abandoned Areas. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0142.

Affected Public: Business or other for-profit.

Number of Respondents: 177.

Frequency: On occasion.

Number of Responses: 47,194.

Annual Burden Hours: 4,870 hours.

Annual Respondent or Recordkeeper Cost: $709,972.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at *https://www.reginfo.gov.*

Roslyn B. Fontaine,

Certifying Officer.

[FR Doc. 2020–16133 Filed 7–24–20; 8:45 am]

BILLING CODE 4510–43–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of July 27, August 3, 10, 17, 24, 31, September 7, 14, 21, 28, October 5, 12, 19, 2020.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of July 27, 2020

There are no meetings scheduled for the week of July 27, 2020.

Week of August 3, 2020—Tentative

There are no meetings scheduled for the week of August 3, 2020.

Week of August 10, 2020—Tentative

There are no meetings scheduled for the week of August 10, 2020.

Week of August 17, 2020—Tentative

There are no meetings scheduled for the week of August 17, 2020.

Week of August 24, 2020—Tentative

There are no meetings scheduled for the week of August 24, 2020.

Week of August 31, 2020—Tentative

There are no meetings scheduled for the week of August 31, 2020.

Week of September 7, 2020—Tentative

There are no meetings scheduled for the week of September 7, 2020.

Week of September 14, 2020—Tentative

Tuesday. September 15, 2020.

10:00 a.m. Agency's Response to the COVID–19 Public Health Emergency (Public Meeting) (Contact: Luis Betancourt: 301–415–6146)

This meeting will be webcast live at the Web address—*https://www.nrc.gov/.*

Thursday, September 17, 2020

10:00 a.m. Transformation at the NRC—Milestones and Results (Public Meeting) (Contact: Maria Arribas-Colon: 301–415–6026)

This meeting will be webcast live at the Web address—*https://www.nrc.gov/.*

Week of September 21, 2020—Tentative

There are no meetings scheduled for the week of September 21, 2020.

Week of September 28, 2020—Tentative

Wednesday September 30, 2020

9:00 a.m. Strategic Programmatic Overview of the Operating Reactors and New Reactors Business Lines and Results of the Agency Action Review Meeting (Public Meeting) (Contact: Luis Betancourt: 301–415–6146)

This meeting will be webcast live at the Web address—*https://www.nrc.gov/.*

Week of October 5, 2020—Tentative

Thursday, October 8, 2020

10:00 a.m. Meeting with the Organization of Agreement States (OAS) and the Conference of Radiation Control Program Directors (CRCPD) (Public Meeting) (Contact: Celimar Valentin-Rodriquez: 301–415–7124)

This meeting will be webcast live at the Web address—*https://www.nrc.gov/.*

Week of October 12, 2020—Tentative

There are no meetings scheduled for the week of October 12, 2020.

Week of October 19, 2020—Tentative

Wednesday, October 21, 2020

10:00 a.m. Briefing on Human Capital and Equal Employment Opportunity (Public Meeting) (Contact: Randi Neff: 301–287–0583)

This meeting will be webcast live at the Web address—*https://www.nrc.gov/.*

1:00 p.m. All Employees Meeting with the Commissioners (Public Meeting)

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the

transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov* or *Tyesha.Bush@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: July 23, 2020.

For the Nuclear Regulatory Commission.

Denise L. McGovern

Policy Coordinator, Office of the Secretary.

[FR Doc. 2020–16285 Filed 7–23–20; 11:15 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89356; File No. SR–BX–2020–016]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing of Proposed Rule Change To Amend BX's Opening Process in Connection With a Technology Migration

July 21, 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 July 20, 2020, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 2, Section 4, ''Obligations of Market Makers and Lead Market Makers''; Options 3, Section 7, ''Types of Orders and Order and Quote Protocols''; Options 3, Section 8, titled ''Opening and Halt Cross''; Options 4A, Section 11, ''Trading Sessions''; and Options 6B, Section 1, ''Exercise of Options Contracts''.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 2, Section 4, ''Obligations of Market Makers and Lead Market Makers''; Options 3, Section 7, ''Types of Orders and Order and Quote Protocols''; Options 3, Section 8, titled ''Opening and Halt Cross''; Options 4A, Section 11, ''Trading Sessions''; and Options 6B, Section 1, ''Exercise of Options Contracts'' in connection with a technology migration to an enhanced Nasdaq, Inc. (''Nasdaq'') architecture which results in higher performance, scalability, and more robust functionality. With this System migration, BX intends to adopt certain opening functionality, which currently exists on Nasdaq Phlx LLC (''Phlx'') at Options 3, Section 8, ''Options Opening Process.''

These proposed enhancements will allow BX to continue to have a robust Opening Process. Broadly, the Exchange's proposal is intended to create an opening process similar to Phlx, however, unlike Phlx, BX will not require its Lead Market Makers to enter Valid Width Quotes during the opening.[3] Today, BX Lead Market Makers are not required to quote during the opening, that will remain unchanged. Today, BX Lead Market Makers may quote during the opening, but they are not obligated to quote.[4] BX Lead Market Makers are required to quote intra-day.[5] The Exchange proposes to retain the Valid Width NBBO requirements with respect to Opening With a Trade pursuant to proposed Options 3, Section 8(i) and (j). The Exchange's proposal would maintain BX's ability to open with a BBO (no trade) pursuant to proposed Options 3, Section 8(f) either with: (1) A Valid Width NBBO; (2) upon the opening of a certain number of away markets; or (3) if a certain amount of time has passed since the commencement of the Opening Process. When opening with a trade, BX's proposal will adopt Phlx's Opening Processes to further limit the current opening price boundaries on BX.[6] The proposal would align BX's current Valid Width NBBO requirements to Phlx's Quality Opening Markets requirements.[7] Phlx's Opening Process requires tighter Valid Width Quotes to open Phlx as compared to the proposed opening for BX.[8] Today, Phlx's Opening Process is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Phlx Options 3, Section 8(d)(i).

[4] Other options markets do not require their lead market makers to quote during the opening. See Cboe Exchange, Inc. Rule 5.31. *See also* The Nasdaq Options Market LLC Options 3, Section 8.

[5] *See* BX Options 2, Section 4(j).

[6] *See* proposed BX Options 3, Section 8(i).

[7] Phlx's Quality Opening Market is a bid/ask differential applicable to the best bid and offer from all Valid Width Quotes defined in a table to be determined by the Exchange and published on the Exchange's website. The calculation of Quality Opening Market is based on the best bid and offer of Valid Width Quotes. The differential between the best bid and offer are compared to reach this determination. The allowable differential, as determined by the Exchange, takes into account the type of security (for example, Penny Pilot versus non-Penny Pilot issue), volatility, option premium, and liquidity. The Quality Opening Market differential is intended to ensure the price at which the Exchange opens reflects current market conditions. *See* Phlx Options 3, Section 8(a)(viii).

Similarly, BX's Valid Width NBBO is the combination of all away market quotes and Valid Width Quotes received over the SQF. The Valid Width NBBO will be configurable by the underlying security, and tables with valid width differentials, which will be posted by the Exchange on its website. Away markets that are crossed will void all Valid Width NBBO calculations. If any Market Maker quotes on the Exchange are crossed internally, then all Exchange quotes will be excluded from the Valid Width NBBO calculation. These two concepts both provide the applicable bid/ask differential and ensure the price at which the Exchange opens reflects current market conditions.

[8] BX's Valid Width Quote is a two-sided electronic quotation, submitted by a Market Maker, quoted with a difference not to exceed $5 between the bid and offer regardless of the price of the bid. *See* proposed BX Options 3, Section 8(a)(9). This is compared to Phlx's Valid Width Quote which is a two-sided electronic quotation submitted by a Phlx Electronic Market Maker that meets the following requirements: Options on equities and index options bidding and/or offering so as to create differences of no more than $.25 between the bid and the offer for each option contract for which the

Continued

more stringent than BX's current opening. This proposal seeks to provide a process for BX, when opening with a trade, that requires tighter boundaries similar to Phlx. The Exchange's proposal is described in greater detail below.

The Exchange proposes to amend the title of Options 3, Section 8 from ''Opening and Halt Cross'' to ''Options Opening Process'' to conform the title to Phlx's Rule at Options 3, Section 8, ''Options Opening Process.'' The Exchange also proposes to amend the title of Options 3, Section 8, within Options 4A, Section 11, Trading Session, and Options 6B, Section 1, Exercise of Options Contracts, to conform the title to ''Options Opening Process'' as proposed herein.

Definitions

The Exchange proposes to amend the current ''Definitions'' section at proposed BX Options 3, Section 8(a). The Exchange proposes to remove the text ''For purposes of this Rule the term:'' and instead state, ''The Exchange conducts an opening for all option series traded on the Exchange using its System.'' This rule text change is intended to conform to Phlx Options 3, Section 8(a).

The Exchange proposes to amend and alphabetize the current definitions within Options 3, Section 8(a). The Exchange proposes to set forth the following terms, which are described below: ''Away Best Bid or Offer'' or ''ABBO;'' ''imbalance;'' ''market for the underlying security;'' ''Opening Price;'' ''Opening Process;'' ''Potential Opening Price;'' ''Pre-Market BBO;'' ''Valid Width National Best Bid or Offer'' or ''Valid Width NBBO;'' ''Valid Width Quote,'' and ''Zero Bid Market.'' The Exchange is conforming the definitions within Options 3, Section 8(a) to start with ''A'' or ''An,'' as appropriate.

The Exchange proposes to relocate and amend the term ''Away Best Bid or Offer'' or ''ABBO'' from current BX Options 3, Section 8(a)(7) to proposed Options 3, Section 8(a)(1). The words ''shall mean'' are replaced by ''is,'' but otherwise the description remains the same.

The Exchange proposes to relocate ''imbalance'' from current BX Options 3, Section 8(a)(1) to proposed Options 3, Section 8(a)(2) and amend the language to provide that an imbalance is the number of unmatched contracts priced through the Potential Opening Price. Currently, the term ''imbalance'' is defined as ''the number of contracts of eligible interest that may not be matched with other order contracts at a particular price at any given time.'' The Exchange proposes to adopt the Phlx definition.[9] The Exchange will be defining Potential Opening Price within this rule change and therefore the new proposed imbalance definition would be more applicable with that definition.

The Exchange proposes to relocate ''market for the underlying security'' from current BX Options 3, Section 8(a)(5) to proposed Options 3, Section 8(a)(3).[10] Today Options 3, Section 8(a)(5) describes ''market for the underlying security'' as ''. . .either the primary listing market, the primary volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), or the first market to open the underlying security, as determined by the Exchange on an issue-by-issue basis and announced to the membership on the Exchange's website.'' The Exchange proposes to amend this definition by replacing the term ''primary volume market'' with ''an alternative market designated by the primary market.'' The Exchange anticipates that an alternative market would be necessary if the primary listing market were impaired.[11] In the event that a primary market is impaired and utilizes its designated alternative market, the Exchange would utilize that market as the underlying.[12] The Exchange further proposes an additional contingency, in the event that the primary market is unable to open, and an alternative market is not designated (and/or the designated alternative market does not open), the Exchange may utilize a non-primary market to open all underlying securities from the primary market. The Exchange will select the non-primary market with the most liquidity in the aggregate for all underlying securities that trade on the primary market for the previous two calendar months, excluding the primary and alternate markets. In order to open an option series it would require an equity market's underlying quote. If another equity market displays opening prices for the underlying security, the Exchange proposes to utilize those quotes. This proposed change to the current System would allow the Exchange to open in situations, where the primary market is experiencing an issue, and also where an alternative market designated by the primary market may not be designated by the primary market, or is unable to open. Utilizing a non-primary market with the most liquidity in the aggregate for all underlying securities for the previous two calendar months will ensure that the Exchange opens with quotes which are representative of the volume on that primary market. The Exchange believes that this proposal will enable it to open in the event that there are issues with the primary market or the alternate market assigned by the primary.

The Exchange proposes a new definition, ''Opening Price,'' at proposed Options 3, Section 8(a)(4). This proposed definition would state that the Opening Price is described in sections (i) and (k). This proposed definition is the same as Phlx Options 3, Section 8(a)(iii).

The Exchange proposes a new definition, ''Opening Process,'' at proposed Options 3, Section 8(a)(5). This proposed definition would state that ''Opening Process'' is described in section (d). This proposed definition is the same as Phlx Options 3, Section 8(a)(iv).

The Exchange proposes a new definition, ''Potential Opening Price,'' at proposed Options 3, Section 8(a)(6). This proposed definition would state that Potential Opening Price is described in section (h). This proposed definition is the same as Phlx Options 3, Section 8(a)(vi).

The Exchange proposes a new definition, ''Pre-Market BBO,'' at Options 3, Section 8(a)(7). This proposed definition would state that Pre-Market BBO is the highest bid and lowest offer among Valid Width Quotes. The term ''Valid Width Quote'' is defined below. This proposed definition is the same as Phlx Options 3, Section 8(a)(vii).

The Exchange proposes to relocate and amend the definition of ''Valid Width National Best Bid or Offer'' or

prevailing bid is less than $2; no more than $.40 where the prevailing bid is $2 or more but less than $5; no more than $.50 where the prevailing bid is $5 or more but less than $10; no more than $.80 where the prevailing bid is $10 or more but less than $20; and no more than $1 where the prevailing bid is $20 or more, provided that, in the case of equity options, the bid/ask differentials stated above shall not apply to in-the-money series where the market for the underlying security is wider than the differentials set forth above. For such series, the bid/ask differentials may be as wide as the quotation for the underlying security on the primary market, or its decimal equivalent rounded down to the nearest minimum increment. The Exchange may establish differences other than the above for one or more series or classes of options. *See* Phlx Options 3, Section 8(a)(ix).

[9] *See* Phlx Options 3, Section 8(a)(xi).

[10] This term is identical to Phlx's Options 3, Section 8(a)(ii).

[11] The primary listing market and the primary volume market, as defined in BX's Rules, could be the same market and therefore an alternative market is not available under the current Rule.

[12] For example, in the event that the New York Stock Exchange LLC was unable to open because of an issue with its market and it designated NYSE Arca, Inc. (''NYSE Arca'') as its alternative market, then BX would utilize NYSE Arca as the market for the underlying.

''Valid Width NBBO'' from current BX Options 3, Section 8(a)(6) to proposed Options 3, Section 8(a)(8). The Exchange proposes to replace the words ''shall mean'' with ''is'' and also replace the rule text which states, ''any combination of BX Options-registered Market Maker order and quotes received over the SQF [13] Protocols within a specified bid/ask differential as established and published by the Exchange,'' with the proposed term ''Valid Width Quote.'' The Exchange also proposes a grammatical correction to add ''the underlying security'' instead of ''underlying'' and also add ''which'' in the second sentence. Finally, the Exchange proposes to amend the last sentence to: (1) Replace ''BX Options'' with ''Exchange;'' (2) remove references to Market Maker ''orders'' and only refer to quotes; and (3) change the term ''such'' to ''Exchange'' to make clear that all local quotes would be excluded from the Valid Width NBBO, when any local quotes are crossed. This proposed change to the definition will align BX's consideration of only Market Maker quotes, and not orders, with Phlx Options 3, Section 8. BX's current rule includes Market Maker orders, Market Maker quotes and away market quotes as part of the Valid Width NBBO calculation. The Exchange proposes to amend the Valid Width NBBO to exclude Market Maker orders and only include Market Maker Valid Width Quotes and away market quotes. This would exclude Opening Sweeps, which are orders that are entered by Market Makers through SQF.[14] The Exchange proposes to exclude such orders from the Valid Width NBBO because Opening Sweeps are considered eligible interest during the Opening Process.

The Exchange proposes a new definition, ''Valid Width Quote,'' at proposed Options 3, Section 8(a)(9). This proposed definition would state that a Valid Width Quote is a two-sided electronic quotation, submitted by a Market Maker, quoted with a difference not to exceed $5 between the bid and offer regardless of the price of the bid. However, respecting in-the-money series where the market for the underlying security is wider than $5, the bid/ask differential may be as wide as the quotation for the underlying security on the primary market, or its decimal equivalent rounded down to the nearest minimum increment. The Exchange may establish differences other than the above for one or more series or classes of options. The bid/ask differentials on BX differ from Phlx. Phlx Options 3, Section 8(a)(ix), similar to proposed BX Options 3, Section 8(a)(9), permits the bid/ask differential to be as wide as the quotation for the underlying security on the primary market, or its decimal equivalent rounded down to the nearest minimum increment. Also, both markets would permit the Exchange to establish differences, other than as stated for one or more series or classes of options. Both markets refer back to their respective intra-day differentials. BX refers to a difference not to exceed $5 between the bid and offer, similar to BX Options 2, Section 4(f) and 5(d)(2). Phlx refers to differentials so as to create differences of no more than $.25 between the bid and the offer for each option contract for which the prevailing bid is less than $2; no more than $.40 where the prevailing bid is $2 or more but less than $5; no more than $.50 where the prevailing bid is $5 or more but less than $10; no more than $.80 where the prevailing bid is $10 or more but less than $20; and no more than $1 where the prevailing bid is $20 or more, similar to Phlx Options 8, Section 27(c)(1)(A).[15]

Finally, the Exchange proposes a new definition, ''Zero Bid Market,'' at proposed Options 5, Section 8(a)(10). This proposed new definition would state that a Zero Bid Market is where the best bid for an options series is zero. This proposed definition is the same as Phlx Options 3, Section 8(a)(x).

The Exchange believes that these definitions will bring additional clarity to the proposed rule.

The Exchange proposes to eliminate the term ''Order Imbalance Indicator'' at current BX Options 3, Section 8(a)(2).[16] This term is no longer necessary as the Exchange is amending the manner in which imbalances are handled on BX. Today, the Order Imbalance Indicator describes a message that is disseminated by electronic means, and contains information about Eligible Interest and the price in penny increments at which such interest would execute at the time of dissemination. BX would disseminate the number of unmatched contracts priced through the Potential Opening Price, similar to Phlx.[17]

The Exchange proposes to eliminate the term ''BX Opening Cross'' at current BX Options 3, Section 8(a)(3).[18] This term is being replaced by the new term ''Opening Process'' at proposed BX Options 3, Section 8(a)(5) and provides, ''An Opening Process is described herein in section (d).''

The Exchange proposes to eliminate the term ''Eligible Interest'' at current BX Options 3, Section 8(a)(4).[19] The Exchange describes eligible interest within proposed BX Options 3, Section 8(b), similar to Phlx. The defined term is no longer necessary.

Eligible Interest

The first part of the Opening Process determines what constitutes eligible interest. The Opening Process is a price discovery process which considers interest, both on BX and away markets, to determine the optimal bid and offer with which to open the market. The Opening Process seeks the price point at which the most number of contracts

[13] ''Specialized Quote Feed'' or ''SQF'' is an interface that allows Market Makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses into and from the Exchange. Features include the following: (1) Options symbol directory messages (e.g underlying instruments); (2) System event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge request from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. *See* Options 3, Section 7(d)(1)(B).

[14] Proposed BX Options 3, Section 7(a)(9) provides, ''Opening Sweep'' is a one-sided order entered by a Market Maker through SQF for execution against eligible interest in the System during the Opening Process. This order type is not subject to any protections listed in Options 3, Section 15, except for Automated Quotation Adjustments. The Opening Sweep will only participate in the Opening Process pursuant to Options 3, Section 8 and will be cancelled upon the open if not executed.''

[15] Phlx's bid/ask differentials in the opening are similar to those for the trading floor.

[16] The Order Imbalance Indicator shall disseminate the following information: (A) ''Current Reference Price'' shall mean an indication of what the opening cross price would be at a particular point in time; (B) the number of contracts of Eligible Interest that are paired at the Current Reference Price; (C) the size of any Imbalance; and (D) the buy/sell direction of any Imbalance. *See* BX Options 3, Section 8(a)(2).

[17] BX's proposed imbalance message would include the symbol, side of the imbalance, size of matched contracts, size of the imbalance, and Potential Opening Price bounded by the Pre-Market BBO. *See* proposed BX Options 3, Section 8(k)(1).

[18] ''BX Opening Cross'' shall mean the process for opening or resuming trading pursuant to this Rule and shall include the process for determining the price at which Eligible Interest shall be executed at the open of trading for the day, or the open of trading for a halted option, and the process for executing that Eligible Interest.

[19] ''Eligible Interest'' shall mean any quotation or any order that may be entered into the system and designated with a time-in-force of IOC (immediate-or-cancel), DAY (day order), GTC (good-till-cancelled), and OPG (On the Open Order). However, orders received via FIX protocol prior to the BX Opening Cross designated with a time-in-force of IOC will be rejected and shall not be considered eligible interest. Orders received via SQF prior to the BX Opening Cross designated with a time-in-force of IOC will remain in-force through the opening and shall be cancelled immediately after the opening.

may be executed, while protecting away market interest.

Proposed BX Options 3, Section 8(b) explains the eligible interest that will be accepted during the Opening Process which includes, Valid Width Quotes, Opening Sweeps [20] and orders. Quotes,[21] other than Valid Width Quotes, will not be included in the Opening Process. This rule text is identical to Phlx Options 3, Section 8(b), except that certain text not relevant to BX is not included.[22] Opening Sweeps may be submitted through the Specialized Quote Feed or ''SQF'' protocol, which permits one-sided orders to be entered by a Market Maker.[23]

The Exchange proposes to define an ''Opening Sweep'' within BX Options 3, Section 8(b)(9) as defined at proposed BX Options 3, Section 7(a)(9). This description for an Opening Sweep is the same as Phlx Options 3, Section 8(b)(i), which cites to a similar provision in Phlx's rules at Options 3, Section 7(b)(6). As proposed, an Opening Sweep is a Market Maker order submitted for execution against eligible interest in the System during the Opening Process. Market participants may specify orders for the Opening Process by placing a TIF of ''OPG'' on the order as explained below. All Participants may submit interest into the Opening Process.

Additionally, the Exchange proposes to amend current BX Options 3, Section 7(a)(9) to remove the current order type described as ''On the Open Order'' and instead adopt an ''Opening Sweep'' order type similar to Phx at Options 3, Section 7(b)(6). While the ''On the Open Order'' and ''Opening Sweep'' are similar, in that both order types may only be entered during the Opening Process, and both cancel back the unexecuted portion of the order, the Exchange believes that utilizing the same terminology and level of detail in describing this order type, as Phlx's current description of an Opening Sweep, will conform the Opening Process of these two Nasdaq affiliated markets. As is the case today, only a Market Maker may enter an Opening Sweep into SQF for execution against eligible interest in the System during the Opening Process. The Exchange provides additional information about the order type, similar to Phlx. This order type is not subject to any protections listed in Options 3, Section 15, except for Automated Quotation Adjustments.[24] The Opening Sweep will only participate in the Opening Process, pursuant to Options 3, Section 8, and will be cancelled upon the open if not executed. This sentence provides additional context to the Opening Sweep, and is the same as Phlx's rule.

Further, BX currently permits orders marked with a ''Time In Force'' or ''TIF'' of ''On the Open Order'' or ''OPG'' to be utilized to specify orders for submission into the Opening Cross.[25] This TIF of ''OPG'' means for orders so designated, that if after entry into the System, the order is not fully executed in its entirety during the Opening Cross, the order, or any unexecuted portion of such order, will be cancelled back to the entering participant. Similar to Phlx Options 3, Section 7(c)(3), BX proposes to replace the ''On the Open Order'' [26] TIF with an ''Opening Only'' or ''OPG'' TIF, which can only be executed in the Opening Process pursuant to Options 3, Section 8. Any portion of the order that is not executed during the Opening Process is cancelled. This order type is not subject to any protections listed in Options 3, Section 15.[27] Finally, the Exchange proposes to note that OPG orders may not route.

The Exchange also proposes rule text within Options 3, Section 8(b)(1)(A) which is similar to Phlx Options 3, Section 8(b)(i)(A). BX proposes to state within Options 3, Section 8(b)(1)(A):

> A Market Maker assigned in a particular option may only submit an Opening Sweep if, at the time of entry of the Opening Sweep, the Market Maker has already submitted and maintained a Valid Width Quote. All Opening Sweeps in the affected series entered by a Market Maker will be cancelled immediately if that Market Maker fails to maintain a continuous quote with a Valid Width Quote in the affected series.

The proposed rule text is similar to Phlx Options 3, Section 8(b)(i)(A). Since the protocol over which an Opening Sweep is submitted is used for Market Maker quoting, the acceptance of an Opening Sweep was structured to rely on the Valid Width Quote. An Opening Sweep may only be submitted by a Market Maker when he/she has a Valid Width Quote in the affected series.

The Exchange proposes rule text within Options 3, Section 8(b)(1)(B), which is similar to Phlx Options 3, Section 8(b)(i)(B). BX proposes to state within Options 3, Section 8(b)(1)(B):

> Opening Sweeps may be entered at any price with a minimum price variation applicable to the affected series, on either side of the market, at single or multiple price level(s), and may be cancelled and re-entered. A single Market Maker may enter multiple Opening Sweeps, with each Opening Sweep at a different price level. If a Market Maker submits multiple Opening Sweeps, the System will consider only the most recent Opening Sweep at each price level submitted by such Market Maker in determining the Opening Price. Unexecuted Opening Sweeps will be cancelled once the affected series is open.

The Exchange proposes to state at proposed BX Options 3, Section 8(b)(2) that, ''The System will allocate interest pursuant to Options 3, Section 10.'' Options 3, Section 10 is the Exchange's allocation methodology which would apply to allocation in the Opening Process. This rule text is similar to Phlx Options 3, Section 8(b)(ii).[28] Today, BX allocates pursuant to Options 3, Section 10 within its opening. The allocation methodology is not being amended with this proposal.

The Exchange proposes to reserve Options 3, Section 8(c). Phlx discusses Floor Broker orders within Options 3, Section 8(c). BX does not have a Trading Floor and is reserving this section to retain similar lettering/numbering as compared to Phlx.

Pursuant to proposed BX Options 3, Section 8(d), eligible interest may be submitted into BX's System and will be received starting at the times noted herein. Specifically, Market Maker Valid Width Quotes and Opening Sweeps

[20] *See* proposed BX Options 3, Section 7(a)(9).

[21] The term quotes shall refer to a two-sided quote.

[22] Phlx describes what a Non-SQT Market Maker may submit. An ''SQT'' is a Streaming Quote Trader. That term is defined within Phlx Options 1, Section 1(b)(54) and is specific to Phlx. No such term exists on BX. Further, Phlx has All-or-None Orders which are permitted to rest on the Order Book. *See* Phlx Options 3, Section 7(b)(5). BX's All-or-None Orders must be executed in its entirety or not at all, and do not rest on the Order Book. *See* BX Options 3, Section 7(a)(8). The behavior of All-or-None Orders is not relevant for BX's Opening because they do not rest on the Order Book and are rejected pre-opening.

[23] *See* note 13 above.

[24] Automated Quotation Adjustments are described within BX Options 3, Section 15(c)(2).

[25] *See* current BX Options 3, Section 7(a)(9).

[26] *See* current BX Options 3, Section 7(b)(1).

[27] Phlx Options 3, Section 7(c)(3) provides that an OPG Order is not subject to any protections listed in Options 3, Section 15, except for Automated Quotation Adjustments. Today, OPG Orders on Phlx are not subject to any protections, including Automated Quotation Adjustments protections. Phlx intends to file a rule change to remove the rule text which provides, ''except for Automated Quotation Adjustments,'' as OPG Orders are not subject to that risk protection. BX will not include the exception in the proposed rule text. OPG Orders are handled in the same manner by the Phlx System today and the BX System, as proposed.

[28] Current BX Options 3, Section 8(b)(5) states, ''If the BX Opening Cross price is selected and fewer than all contracts of Eligible Interest that are available in BX Options would be executed, all Eligible Interest shall be executed at the BX Opening Cross price in accordance with the execution algorithm assigned to the associated underlying option.'' The Exchange would continue to allocate pursuant to the Exchange's allocation methodology within Options 3, Section 10. Further, in accordance with current BX Options 3, Section 8(b)(6), all eligible interest will be executed at the Opening Price and disseminated on OPRA.

received starting at 9:25 a.m. will be included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process. This proposed language adds specificity to the rule regarding the submission of Valid Width Quotes and Opening Sweeps. The 9:25 a.m. trigger is intended to tie the option Opening Process to quoting in the majority of the underlying securities; it presumes that option quotes submitted before any indicative quotes have been disseminated for the underlying security may not be reliable or intentional. Therefore, the Exchange has chosen a reasonable timeframe at which to begin utilizing option quotes, based on the Exchange's experience when underlying quotes start becoming available. BX's current rule at Options 3, Section 8(b) provides the Opening Cross shall occur at or after 9:30 if the dissemination of a regular market hours quote or trade by the market for the underlying security has occurred or in the case of index options the Exchange has received the opening price of the underlying index. The Exchange continues to rely on the underlying price with this proposal.

Proposed BX Options 3, Section 8(d)(1) describes when the Opening Process may begin with specific time-related triggers. The proposed rule provides that the Opening Process for an option series will be conducted pursuant to proposed Options 3, Section 8 (f) through (k) on or after 9:30 a.m., when the System has received the opening trade or quote on the market for the underlying security in the case of equity options or in the case of index options. This requirement is intended to tie the option Opening Process to receipt of liquidity. This rule text differs from Phlx's rule at Options 3, Section 8(d)(i).[29] Phlx's rule describes quoting requirements for Lead Market Makers. Today, BX, unlike Phlx, does not require its Lead Market Makers to submit Valid Width Quotes. BX is not proposing to adopt the same quoting requirements during the Opening Process that exist on Phlx. Therefore, the Phlx requirement for Lead Market Makers would not be applicable to BX. Further, proposed BX Options 3, Section 8(d)(3) makes clear that the Opening Process will stop and an option series will not open if the ABBO becomes crossed. Therefore, the Exchange does not note within proposed Options 3, Section 8(d)(1) that the ABBO may not be crossed.

The Exchange is proposing to state in proposed BX Options 3, Section 8(d)(2), similar to Phlx Options 3, Section 8(d)(ii), that for all options, the underlying security, including indexes, must be open on the market for the underlying security for a certain time period to be determined by the Exchange for the Opening Process to commence. The Exchange is proposing that the time period be no less than 100 milliseconds and no more than 5 seconds.[30] This proposal is intended to permit the price of the underlying security to settle down and not flicker back and forth among prices after its opening. It is common for a stock to fluctuate in price immediately upon opening; such volatility reflects a natural uncertainty about the ultimate Opening Price, while the buy and sell interest is matched. The Exchange is proposing a range of no less than 100 milliseconds and no more than 5 seconds, in order to ensure that it has the ability to adjust the period for which the underlying security must be open on the primary market. The Exchange may determine that in periods of high/low volatility that allowing the underlying to be open for a longer/shorter period of time may help to ensure more stability in the marketplace prior to initiating the Opening Process.

BX is not adopting Phlx Rules at Options 3, Section 8(d)(iii) and (iv), which describe quoting obligations for Phlx Lead Market Makers once an underlying security in the assigned option series has opened for trading. As noted above, the quoting obligations described in Phlx's rule do not apply in BX's current rule, as BX does not require Lead Market Makers to quote in the Opening Process today. The Exchange's proposal does not require Lead Market Makers to quote during the Opening Process.

Similar to Phlx Options 3, Section 8(d)(v), BX proposed within Options 3, Section 8(d)(3) to provide that the Opening Process will stop and an option series will not open if the ABBO becomes crossed. Once this condition no longer exists, the Opening Process in the affected option series will start again pursuant to paragraphs (f)–(k). All eligible opening interest will continue to be considered during the Opening Process when the process is re-started. The proposed rule reflects that the ABBO cannot be crossed for the Opening Process to proceed. These events are indicative of uncertainty in the marketplace of where the option series should be valued. In these cases, the Exchange will wait for the ABBO to become uncrossed before initiating the Opening Process to ensure that there is stability in the marketplace in order to assist the Exchange in determining the Opening Price, or for a Valid Width Quote to be submitted. Unlike Phlx Options 3, Section 8(d)(v),[31] BX will not consider if a Valid Width Quote(s) is no longer present. Unlike Phlx, BX does not require its Lead Market Makers to quote in the Opening Process. This requirement is not necessary for BX as BX's market would open with a BBO, pursuant to Options 3, Section 8(f), unless the ABBO becomes crossed. While, BX is not adopting Phlx's requirement to quote in the Opening Process, certain protections exist within proposed Options 3, Section 8(d)(4). A Valid Width NBBO must be present for BX to open with a trade pursuant to this proposal.

The Exchange proposes to add rule text within proposed Options 3, Section 8(d)(4) to provide a scenario, which is specific to BX, and would not be applicable to Phlx. The Exchange proposes that an Opening Process will stop and an options series will not open, if a Valid Width NBBO is no longer present, pursuant to paragraph (i)(2). Once this condition no longer exists, the

[29] Phlx Options 3 Section 8(d)(i) provides, ''The Opening Process for an option series will be conducted pursuant to paragraphs (f)—(k) below on or after 9:30 a.m. if: the ABBO, if any, is not crossed; and the System has received, within two minutes (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website) of the opening trade or quote on the market for the underlying security in the case of equity options or, in the case of index options, within two minutes of the receipt of the opening price in the underlying index (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website), or within two minutes of market opening for the underlying currency in the case of U.S. dollar-settled FCO (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website) any of the following: (A) the Lead Market Maker's Valid Width Quote; (B) the Valid Width Quotes of at least two Phlx Electronic Market Makers other than the Lead Market Maker; or (C) if neither the Lead Market Maker's Valid Width Quote nor the Valid Width Quotes of two Phlx Electronic Market Makers have been submitted within such timeframe, one Phlx Electronic Market Maker has submitted a Valid Width Quote.''

[30] The Phlx Opening Process is set at 100 milliseconds. The Exchange believes that 100 milliseconds is the appropriate amount of time given the experience with the Phlx market. The Exchange would set the timer for BX initially at 100 milliseconds. The Exchange will issue a notice to provide the initial setting and, would, thereafter, issue a notice if it were to change the timing, which may be between 100 milliseconds and 5 seconds. If the Exchange were to select a time not between 100 milliseconds and 5 seconds, it would be required to file a rule proposal with the Commission.

[31] Phlx Options 3, Section 8(d)(v) provides, ''The Opening Process will stop and an option series will not open if the ABBO becomes crossed or when a Valid Width Quote(s) pursuant to paragraph (d)(i) is no longer present. Once each of these conditions no longer exist, the Opening Process in the affected option series will start again pursuant to paragraphs (f)–(k) below.''

Opening Process in the affected options series will start again, pursuant to paragraphs (j) and (k) below. Today, BX would not open with a trade unless there is a Valid Width NBBO present. This would remain the case with this proposal. The Exchange believes that the addition of this text provides market participants with an expectation of the circumstances under which the Exchange would open an option series, as well as price protection afforded to interest attempting to participate in the Opening Process on BX.

Reopening After a Trading Halt

Proposed BX Options 3, Section 8(e) is intended to provide information regarding the manner in which a trading halt would impact the Opening Process similar to Phlx Options 3, Section 8(e). Proposed BX Options 3, Section 8(e) states that ''[t]he procedure described in this Rule will be used to reopen an option series after a trading halt. If there is a trading halt or pause in the underlying security, the Opening Process will start again irrespective of the specific times listed in paragraph (d).'' This last sentence makes clear that this rule applies to openings related to the normal market opening, as well as intra-day re-openings following a trading halt. Current BX Options 3, Section 8(b) similarly provides that an Opening Cross shall occur when trading resumes after a trading halt. The Exchange is not amending this provision, rather the text is being presented similar to Phlx's Options 3, Section 8.

Opening With a BBO

Proposed BX Options 3, Section 8(f) describes when the Exchange may open with a quote on its market (no trade). The proposed rule states,

Opening with a BBO (No Trade). If there are no opening quotes or orders that lock or cross each other, and no routable orders locking or crossing the ABBO, the System will open with an opening quote by disseminating the Exchange's best bid and offer among quotes and orders (''BBO'') that exist in the System at that time, if any of the below conditions are satisfied:

(1) A Valid Width NBBO is present;

(2) A certain number of other options exchanges (as determined by the Exchange) have disseminated a firm quote on OPRA; or

(3) A certain period of time (as determined by the Exchange) has elapsed.

Unlike Phlx, which provides that certain conditions may not exist,[32] BX's proposal affirmatively states that the System will open with no trade provided one of the three conditions within Options 3, Section 8(f) are met. These three conditions are similar to BX's current rule text within Options 3, Section 8(b). BX's proposal at proposed Options 3, Section (f)(1) provides that that the System will open, provided any one of the three conditions are met, and one of those conditions is a Valid Width NBBO, as noted in (f)(1). Subject to Options 3, Section 8(f)(2), an options series may open if a certain number of other options exchanges (as determined by the Exchange) have disseminated a firm quote on OPRA.[33] Also, an options series will open if a certain period of time, as determined by the Exchange, has elapsed pursuant to Options 3, Section 8(f)(3).[34] Unlike Phlx which requires a Lead Market Maker to quote during the Opening Process, BX requires a Valid Width NBBO to open. Phlx's rule will open with a Valid Width Quote, unless all of the conditions in Phlx Options 3, Section 8(f) exist. The three conditions noted in Phlx, (i) a Zero Bid Market; (ii) no ABBO; and (iii) no Quality Opening Market, would cause Phlx to calculate an OQR because it could not open with a trade. The Exchange notes that the concept is similar for Phlx and BX, except that the triggers for opening are different, a Valid Width Quote as compared to a Valid Width NBBO (*e.g.* BX does not require a Lead Market Maker to quote to open an option series and, thus does not require a Valid Width Quote to open). BX does not require a Valid Width Quote and, therefore, requires the conditions within proposed BX Options 3, Section 8(f) to open with a BBO Conversely, Phlx requires a Valid Width Quote and, therefore, once that Valid Width Quote is available, Phlx would consider if all of the three conditions noted within Phlx Options 3, Section 8(f) exist to ensure there are no impediments to opening with a PBBO (Phlx's BBO).

Current BX Options 3, Section 8(b)(2) provides that ''[i]f no trade is possible on BX, then BX will open dependent upon one of the following: (A) A Valid Width NBBO is present; (B) A certain number of other options exchanges (as determined by the Exchange) have disseminated a firm quote on OPRA; or (C) A certain period of time (as determined by the Exchange) has elapsed.'' It will continue to permit one of these 3 scenarios to open an options series on BX. The Exchange also notes that a Valid Width NBBO must be present to open, pursuant to Options 3, Section 8(j) or (k), which are described below.

Further Opening Processes

If, as proposed, an opening did not occur pursuant to proposed paragraph (e) (Reopening After a Trading Halt) and there are opening Valid Width Quotes, or orders, that lock or cross each other, the System will calculate the Pre-Market BBO.[35] The Pre-Market BBO only uses Valid Width Quotes, which provide both a bid and offer as compared to orders which are one-sided. The rule text of proposed BX Options 3, Section 8(g) provides, ''If there are opening Valid Width Quotes or orders that lock or cross each other, the System will calculate the Pre-Market BBO.'' This rule text is the same as Phlx Options 3, Section 8(g). The Exchange calculates a Pre-Market BBO in order for the Exchange to open with a trade pursuant to proposed Options 3, Section 8(i), to ensure that the Pre-Market BBO is a Valid Width NBBO, which is required to open the market.[36] The Exchange does not disseminate a Pre-Market BBO, rather, the Exchange disseminates imbalance messages to notify Participants of available trading opportunities on BX during the Opening Process.

Potential Opening Price

Current BX Options 3, Section 8(b)(4) provides that the ''[t]he BX Opening Cross shall occur at the price that maximizes the number of contracts of eligible interest in BX Options to be executed at or within the ABBO and within a defined range, as established and published by the Exchange, of the Valid Width NBBO.'' The proposed Opening Process seeks to maximize the

[32] Phlx Options 3, Section 8(f) states, ''Opening with a PBBO (No Trade). If there are no opening quotes or orders that lock or cross each other and no routable orders locking or crossing the ABBO, the System will open with an opening quote by disseminating the Exchange's best bid and offer among quotes and orders (''PBBO'') that exist in the System at that time, unless all three of the following conditions exist: (i) A Zero Bid Market; (ii) no ABBO; and (iii) no Quality Opening Market. If all of these conditions exist, the Exchange will calculate an Opening Quote Range pursuant to paragraph (j) and conduct the Price Discovery Mechanism pursuant to paragraph (k) below.''

[33] BX currently requires at least two other options exchanges to open. The setting will be initially set at two away options exchanges with this new proposal.

[34] BX currently requires 15 minutes to pass with respect to this setting, The setting will remain at 15 minutes with this proposal.

[35] *See* proposed BX Options 3, Section 8(g).

[36] The Pre-Market BBO is calculated to ensure, when the Exchange opens with a trade, a Valid Width NBBO is present, particularly when there is no away market quote or when the away market quote is not a Valid Width NBBO.

number of number of contracts of eligible interest that will execute during the Opening Process. The Exchange proposes to establish boundaries, similar to Phlx, to establish the Opening Price. The ABBO will continue to be considered as part of the Potential Opening Price. Proposed BX Options 3, Section 8(i) describes the manner in which the ABBO is considered in arriving at the Potential Opening Price.

Proposed BX Options 3, Section 8(h), similar to Phlx Options 3, Section 8(h), describes the general concept of how the System calculates the Potential Opening Price under all circumstances, once the Opening Process is triggered. The first sentence of that paragraph describes a Potential Opening Price as a price where the System may open once all other Opening Process criteria is met. Next, the rule text provides, ''[t]o calculate the Potential Opening Price, the System will take into consideration all Valid Width Quotes and orders (including Opening Sweeps) for the option series and identify the price at which the maximum number of contracts can trade (''maximum quantity criterion''). In addition, paragraphs (i)(1)(C) and (j)(5)–(7) below contain additional provisions related to the Potential Opening Price.'' The proposal attempts to maximize the number of contracts that can trade, and is intended to find the most reasonable and suitable price, relying on the maximization to reflect the best price.

Proposed BX Options 3, Section 8(h)(1) presents the scenario for more than one Potential Opening Price. Proposed Options 3, Section 8(h)(1) provides,

> More Than One Potential Opening Price. When two or more Potential Opening Prices would satisfy the maximum quantity criterion and leave no contracts unexecuted, the System takes the highest and lowest of those prices and takes the mid-point; if such mid-point is not expressed as a permitted minimum price variation, it will be rounded to the minimum price variation that is closest to the closing price for the affected series from the immediately prior trading session. If there is no closing price from the immediately prior trading session, the System will round up to the minimum price variation to determine the Opening Price.

Proposed BX Options 3, Section 8(h)(2) presents the scenario for two or more Potential Opening Prices. Proposed Options 3, Section 8(h)(2) provides, ''If two or more Potential Opening Prices for the affected series would satisfy the maximum quantity criterion and leave contracts unexecuted, the Opening Price will be either the lowest executable bid or highest executable offer of the largest sized side.'' This, again, bases the Potential Opening Price on the maximum quantity that is executable.

Proposed BX Options 3, Section 8(h)(3) provides that ''[t]he Opening Price is bounded by the better away market price that cannot be satisfied with the Exchange routable interest.'' The Exchange does not open with a trade at a price that trades through another market's BBO. This process, importantly, breaks a tie by considering the largest sized side and away markets, which are relevant to determining a fair Opening Price.

The System applies certain boundaries to the Potential Opening Price to help ensure that the price is a reasonable one by identifying the quality of that price; if a well-defined, fair price can be found within these boundaries, the option series can open at that price without going through a further price discovery mechanism.

Proposed BX Options 3, Section 8(i), Opening with a Trade, provides:

> The Exchange will open the option series for trading with a trade on Exchange interest only at the Opening Price, if any of these conditions occur:
>
> (A) The Potential Opening Price is at or within the best of the Pre-Market BBO and the ABBO, which is also a Valid Width NBBO;
>
> (B) the Potential Opening Price is at or within the non-zero bid ABBO, which is also a Valid Width NBBO, if the Pre-Market BBO is crossed; or
>
> (C) where there is no ABBO, the Potential Opening Price is at or within the Pre-Market BBO, which is also a Valid Width NBBO.
>
> For the purposes of calculating the mid-point the Exchange will use the better of the Pre-Market BBO or ABBO as a boundary price and will open that options series for trading with an execution at the resulting Potential Opening Price.[37]

These boundaries serve to validate the quality of the Opening Price. Proposed BX Options 3, Section 8(i), provides that the Exchange will open the option series for trading with an execution at the resulting Potential Opening Price, as long as it is within the defined boundaries regardless of any imbalance. The Exchange believes that since the Opening Price can be determined within a well-defined boundary and not trading through other markets, it is fair to open the market immediately with a trade and to have the remaining interest available to remain on the Order Book to be potentially executed in the displayed market. Using a boundary-based price counterbalances opening faster at a less bounded and perhaps less expected price and reduces the possibility of leaving an imbalance.

Proposed BX Options 3, Section 8(i)(2), provides that if there is more than one Potential Opening Price which meets the conditions set forth in proposed BX Options 3, Section 8(i)(1)(A), (B) or (C), where (A) no contracts would be left unexecuted and (B) any value used for the mid-point calculation (which is described in subparagraph (g)) would cross either: (i) The Pre-Market BBO or (ii) the ABBO, then the Exchange will open the option series for trading with an execution and use the best price which the Potential Opening Price crosses as a boundary price for the purpose of the mid-point calculation. If these aforementioned conditions are not met, but a Valid Width NBBO is present, an Opening Quote Range is calculated as described in proposed BX Options 3, Section 8(j) and the price discovery mechanism, described in proposed BX Options 3, Section 8(k), would commence. The proposed rule explains the boundary, as well as the price basis for the mid-point calculation, to enable the market to immediately open with a trade, which improves the detail included in the rule. The Exchange believes that this process is logical because it seeks to select a fair and balanced price. This rule text is similar to Phlx Options 3, Section 8(i).

Today, BX has the concept of a Valid Width NBBO in its current rule. Rather than adopt Phlx's notion of a Quality Opening Market,[38] which is very similar

[37] BX's current rule at Options 3, Section 8(b)(4)(B) states, ''If more than one price exists under subparagraph (A), and there are no contracts that would remain unexecuted in the cross, the BX Opening Cross shall occur at the midpoint price, rounded to the penny closest to the price of the last execution in that series (and in the absence of a previous execution price, the price will round up, if necessary) of (1) the National Best Bid or the last offer on BX Options against which contracts will be traded whichever is higher, and (2) the National Best Offer or the last bid on BX Options against which contracts will be traded whichever is lower.'' This process for considering the mid-point is being eliminated in favor of Phlx's methodology for calculating the mid-point as described in proposed BX Options 3, Section 8(h).

[38] Phlx's Quality Opening Market is a bid/ask differential applicable to the best bid and offer from all Valid Width Quotes defined in a table to be determined by the Exchange and published on the Exchange's website. The calculation of Quality Opening Market is based on the best bid and offer of Valid Width Quotes. The differential between the best bid and offer are compared to reach this determination. The allowable differential, as determined by the Exchange, takes into account the type of security (for example, Penny Pilot versus non-Penny Pilot issue), volatility, option premium, and liquidity. The Quality Opening Market differential is intended to ensure the price at which the Exchange opens reflects current market conditions. *See* Phlx Options 3, Section 8(a)(viii).

Similarly, BX's Valid Width NBBO is the combination of all away market quotes and Valid Width Quotes received over the SQF. The Valid Width NBBO will be configurable by the underlying security, and tables with valid width differentials,

Continued

to the concept of a Valid Width NBBO, BX retained the concept of a Valid Width NBBO. Phlx's rules at Options 3, Section 8(d), require a Valid Width Quote. The calculation of Phlx's Quality Opening Market is based on the best bid and offer of Valid Width Quotes. BX's proposed rule will only require a Valid Width NBBO, which is the combination of all away market quotes and Valid Width Quotes received over SQF. Unlike Phlx's requirements in Options 3, Section 8(d), which require a Lead Market Maker's quote, a BX Lead Market Maker may quote during the Opening Process, but is not required to quote in the Opening Process. BX's proposed rule retained the concept of a Valid Width NBBO because there is no requirement for Lead Market Makers to submit a Valid Width Quote. In contrast, Phlx utilized a Quality Opening Market concept.

BX's Valid Width NBBO is configurable by underlying, and a table with valid width differentials is available on BX's web page.[39] Away markets that are crossed (*e.g.* Cboe crosses MIAX, BOX crosses CBOE) will void all Valid Width NBBO calculations. If any Market Maker quotes on BX Options are crossed internally, then all such quotes will be excluded from the Valid Width NBBO calculation. Within the Valid Width NBBO, all away market quotes and any combination of Market Maker Valid Width Quotes, whether they include the Exchange's Best Bid or Offer or not, are represented. The price discovery on BX currently includes not only Market Maker quotes, but also away market interest, this will remain the same with the proposal. The following examples illustrate the calculation of the Valid Width NBBO:

Example 1: (away markets are crossed)

Assume the Valid Width NBBO bid/ask differential is set by BX at .10.

Market Maker1 is quoting on the Exchange 1.05–1.15

Market Maker2 is quoting on the Exchange 1.00–1.10

BX BBO 1.05–.1.10

Assume Cboe is quoting .90–1.10

Assume MIAX is quoting .70–.85.

Since the ABBO is crossed (.90-.85), Valid Width NBBO calculations are not taken into account until the away markets are no longer crossed. Once the away markets are no longer crossed, the Exchange will determine if a Valid Width NBBO can be calculated. Assume the ABBO uncrosses because MIAX updates their quote to .90–1.15, the BX BBO of 1.05–1.10 is considered a Valid Width NBBO. Pursuant to proposed Options 3, Section 8(f), BX Options will open with no trade and BBO disseminated as 1.05–1.10.

Example 2: (BX Options orders/quotes are crossed, ABBO is Valid Width NBBO)

Assume that the Valid Width NBBO bid/ask differential is set by the Exchange at .10.

Market Maker1 is quoting on the Exchange 1.05–1.15 (10x10 contracts)

Market Maker2 is quoting on the Exchange .90-.95 (10x10 contracts)

BX BBO crossed, 1.05–.95, while another Market Maker3 is quoting on the Exchange at .90–1.15 (10x10 contracts).

Since the BX BBO is crossed, the crossing quotes are excluded from the Valid Width NBBO calculation. However, assume Cboe is quoting .95–1.10 and MIAX is quoting .95–1.05, resulting in an uncrossed ABBO of .95–1.05.

The ABBO of .95–1.05 meets the required .10 bid/ask differential and is considered a Valid Width NBBO. As Market Maker1 and Market Maker2 have 10 contracts each, these contracts will cross because there is more than one price at which those contracts could execute. The opening will occur with 10 contracts executing at 1.00, which is the mid-point of the NBBO.

At the end of the Opening Process, only the quote from Market Maker3 remains so the BX Options disseminated quote at the end of Opening Process will be .90–1.15 (10x10 contracts).

The requirement of a Valid Width NBBO being present continues to ensure that the Opening Price is rationally based on what is present in the broader marketplace during the Opening Process. As noted herein, the Valid Width NBBO includes all away market quotes. A Potential Opening Price must be at or within the ABBO, provided the market opened prior to calculation an OQR as discussed below.

Proposed BX Options 3, Section 8(j) provides that the System will calculate an Opening Quote Range (''OQR'') for a particular option series that will be utilized in the price discovery mechanism if the Exchange has not opened subject to any of the provisions described above. Provided the Exchange has been unable to open the option series[40] the OQR would broaden the range of prices at which the Exchange may open. This would allow additional interest to be eligible for consideration in the Opening Process. The OQR is an additional type of boundary beyond the boundaries mentioned in proposed BX Options 3, Section 8(h) and (i). OQR is intended to limit the Opening Price to a reasonable, middle ground price and thus reduce the potential for erroneous trades during the Opening Process. Although the Exchange applies other boundaries such as the BBO, the OQR provides a range of prices that may be able to satisfy additional contracts, while still ensuring a reasonable Opening Price. The Exchange seeks to execute as much volume as is possible at the Opening Price. OQR is constrained by the least aggressive limit prices within the broader limits of OQR. The least aggressive buy order or Valid Width Quote bid and least aggressive sell order or Valid Width Quote offer within the OQR will further bound the OQR. Although the Exchange applies other boundaries such as the BBO, the OQR is outside of the BBO. It is meant to provide a price that can satisfy more size without becoming unreasonable. Below is an example of the manner in which OQR is constrained.

OQR Example: Assume the below pre-opening interest:

Lead Market Maker quotes 4.10 (100) x 4.20 (50)

Order1: Public Customer Buy 300 @4.39

Order2: Public Customer Sell 50 @4.13

Order3: Public Customer Sell 5 @4.29

Opening Quote Range configuration in this scenario is +/−0.10

9:30 a.m. events occur, underlying opens

First imbalance message: Buy imbalance @4.20, 100 matched, 200 unmatched

Next 3 imbalance messages: Buy imbalance @4.29, 105 matched, 195 unmatched

Potential Opening Price calculation would have been 4.20 + 0.10 = 4.30, but OQR is further bounded by the least aggressive Sell order @4.29

Order1 executes against Order 2 50 @ 4.29

Order1 executes against Lead Market Maker quote 50 @4.29

Order1 executes against Order 3 5 @4.29

Remainder of Order1 cancels as it is through the Opening Price

Lead Market Maker quote purges as its entire offer side volume has been exhausted

Specifically, to determine the minimum value for the OQR, an amount, as defined in a table to be

which will be posted by the Exchange on its website. Away markets that are crossed will void all Valid Width NBBO calculations. If any Market Maker quotes on the Exchange are crossed internally, then all Exchange quotes will be excluded from the Valid Width NBBO calculation. These two concepts both provide the applicable bid/ask differential and ensure the price at which the Exchange opens reflects current market conditions.

[39] *See https://www.nasdaqtrader.com/Content/TechnicalSupport/BXOptions_SystemSettings.pdf.*

[40] This would refer to an opening pursuant to proposed BX Options 3, Section 8(f) or (i).

determined by the Exchange, will be subtracted from the highest quote bid among Valid Width Quotes on the Exchange and on the away market(s), if any, except as provided in proposed BX Options 3, Section 8(j) paragraphs (3) and (4). To determine the maximum value for the OQR, an amount, as defined in a table to be determined by the Exchange, will be added to the lowest quote offer among Valid Width Quotes on the Exchange and on the away market(s), if any, except as provided in proposed BX Options 3, Section 8(j) paragraphs (3) and (4).[41] However, if one or more away markets are disseminating a BBO that is not crossed, and there are Valid Width Quotes on the Exchange that cross each other or are marketable against the ABBO, then the minimum value for the OQR will be the highest away bid.[42] It should be noted that the Opening Process would stop and an option series will not open if the ABBO becomes crossed, pursuant to proposed Options 3, Section 8(d)(3). In addition, the maximum value for the OQR will be the lowest away offer.[43]

If there is more than one Potential Opening Price possible, where no contracts would be left unexecuted, any price used for the mid-point calculation (which is described in proposed BX Options 3, Section 8(h)(3)), that is outside of the OQR, will be restricted to the OQR price on that side of the market for the purposes of the mid-point calculation. BX Options 3, Section 8(j)(4) continues the theme of relying on both maximizing executions and looking at the correct side of the market to determine a fair price.

Proposed BX Options 3, Section 8(j)(5) deals with the situation where there is an away market price involved. If there is more than one Potential Opening Price possible, where no contracts would be left unexecuted, pursuant to proposed BX Options 3, Section 8(h)(3), when contracts will be routed, the System will use the away market price as the Potential Opening Price. The Exchange is seeking to execute the maximum amount of volume possible at the Opening Price. The Exchange will enter into the Order Book any unfilled interest at a price equal to or inferior to the Opening Price.[44] It should be noted, the Exchange will not trade through an away market.[45]

Finally, proposed BX Options 3, Section 8(j)(6) provides if the Exchange determines that non-routable interest can execute the maximum number of Exchange contracts against Exchange interest, after routable interest has been determined by the System to satisfy the away market, then the Potential Opening Price is the price at which the maximum number of contracts can execute, excluding the interest which will be routed to an away market, which may be executed on the Exchange as described in proposed BX Options 3, Section 8(h). This continues the theme of trying to satisfy the maximum amount of interest during the Opening Process. This is similar to Phlx Options 3, Section 8(j). BX's proposed rule at Options 3, Section 8(j)(6) provides that the System will route all routable interest pursuant to Options 3, Section 10(a)(1).[46] Both Phlx and the proposed BX rule cite to their respective allocation rules.[47]

Price Discovery Mechanism

If the Exchange has not opened pursuant to proposed paragraphs (f) or (i), after the OQR is calculated, pursuant to proposed BX Options 3, Section 8(j), the Exchange will conduct a price discovery mechanism, pursuant to proposed BX Options 3, Section 8(k), which is similar to Phlx Options 3, Section 8(k). The price discovery mechanism is the process by which the Exchange seeks to identify an Opening Price having not been able to do so following the process outlined thus far herein. The principles behind the price discovery mechanism are, as described above, to satisfy the maximum number of contracts possible by identifying a price that may leave unexecuted contracts. However, the price discovery mechanism applies a proposed, wider boundary to identify the Opening Price, and the price discovery mechanism involves seeking additional liquidity.

The Exchange believes that conducting the price discovery process in these situations protects orders from receiving a random price that does not reflect the totality of what is happening in the markets on the opening, and also further protects opening interest from receiving a potentially erroneous execution price on the opening. Opening immediately has the benefit of speed and certainty, but that benefit must be weighed against the quality of the execution price, and whether orders were left unexecuted. The Exchange believes that the proposed rule strikes an appropriate balance.

The proposed rule attempts to open using Exchange interest only to determine an Opening Price, provided certain conditions contained in proposed BX Options 3, Section 8(j) are present, to ensure market participants receive a quality execution in the opening. The proposed rule does not consider away market liquidity, for purposes of routing interest to other markets, until the price discovery mechanism pursuant to proposed paragraph (k). Rather, away market prices are considered for purposes of avoiding trade-throughs. As a result, the Exchange might open without routing, if all of the conditions described above are met. The Exchange believes that the benefit of this process is a more rapid opening with quality execution prices. Opening with a quote, pursuant to Options 3, Section 8(f), would not require consideration of away market quotes because BX would have opened with a local quote that was not locked or crossed with the away market, provided there are no opening quotes or orders that lock or cross each other, and no routable orders locking or crossing the ABBO.[48] With respect to Opening with a Trade, pursuant to Options 3, Section 8(i), the Exchange would not consider away market interest if it could open immediately with a trade, provided that the Exchange would not trade-through an away market. If BX is locked and crossed with an away market, then the Exchange would require additional price discovery, pursuant to Options 3, Section 8(j) and (k). Finally, the Exchange considers away market interest in the Valid Width NBBO.

Today, pursuant to current BX Options 3, Section 8(b)(3) and (7), BX disseminates, by electronic means, an Order Imbalance Indicator every 5 seconds beginning between 9:20 and 9:28, or a shorter dissemination interval as established by the Exchange, with the default being set at 9:25 a.m. The start of dissemination, and a dissemination interval, are posted by BX on its website. Also, BX would disseminate an Order Imbalance Indicator for an imbalance containing marketable

[41] *See* proposed BX Options 3, Section 8(j)(2).

[42] *See* proposed BX Options 3, Section 8(j)(3)(A).

[43] *See* proposed BX Options 3, Section 8(j)(3)(B).

[44] *See* proposed BX Options 3, Section 8(k)(5).

[45] *See* current BX Options 3, Section 5(d).

[46] Phlx Options 3, Section 8(k)(C)(6) provides, ''The System will execute orders at the Opening Price that have contingencies (such as, without limitation, all-or-none) and non-routable orders, such as a ''Do Not Route'' or ''DNR'' Orders, to the extent possible. The System will only route non-contingency Public Customer and Professional orders.'' Phlx routes Public Customer and Professional orders, while BX would route orders for all market participants.

[47] Phlx Options 3, Section 8(k)(E) provides that the allocation provisions of Options 3, Section 10 will apply.

[48] *See* BX Options 3, Section 8(f).

routable interest.[49] The Exchange proposes to continue to disseminate an imbalance, but instead of the manner in which BX utilizes an Order Imbalance Indicator today, BX would instead post up to 4 Imbalance Messages which each run its own Imbalance Timer, similar to Phlx. Today, BX's imbalance process begins, even if it has no interest. With this proposal, BX's imbalance message will serve to notify Participants of the availability of interest to cross in the opening. The Exchange believes that the proposed methodology will attract interest during the Opening Process, because the imbalance message will highlight for Participants the available size that may be crossed. The Exchange believes that Phlx's process attracts additional liquidity, because the proposed amendments are intended to create a more robust experience for market participants seeking to have their orders executed during the Opening Process. The Exchange believes adopting Phlx's process improves the quality of execution of BX Options' opening by attracting more liquidity through more meaningful imbalance notifications that broadcast trading opportunities during BX's Opening Process. The proposed changes give Participants more transparency into BX's Opening Process that would afford them a better experience.

Specifically, proposed BX Options 3, Section 8(k)(1) provides that the System will broadcast an Imbalance Message for the affected series (which includes the symbol, side of the imbalance, size of matched contracts, size of the imbalance, and Potential Opening Price bounded by the Pre-Market BBO) to participants, and begin an ''Imbalance Timer,'' not to exceed three seconds to notify Participants of available interest that may be crossed during the Opening Process. The Imbalance Timer would initially be set 200 milliseconds.[50] The Imbalance Message is intended to attract additional liquidity, much like an auction, using an auction message and timer. The Imbalance Timer would be for the same number of seconds for all options traded on the Exchange. Pursuant to this proposed rule, as described in more detail below, the Exchange may have up to 4 Imbalance Messages which each run its own Imbalance Timer.

The Exchange proposes to provide at BX Options 3, Section 8(k)(1)(A), An Imbalance Message will be disseminated showing a ''0'' volume and a $0.00 price if: (i) No executions are possible but routable interest is priced at or through the ABBO; or (ii) internal quotes are crossing each other. Where the Potential Opening Price is through the ABBO, an imbalance message will display the side of interest priced through the ABBO.

This rule text explains the information that is being conveyed when an imbalance message indicates ''0'' volume, such as (i) when no executions are possible and routable interest is priced at or through the ABBO; or (ii) internal quotes are crossing each other. The Imbalance Message provides detail regarding the potential state of the interest available. Where the Potential Opening Price is through the ABBO, an imbalance message will display the side of interest priced through the ABBO. The Imbalance Message provides transparency to market participants during the Opening Process. This rule text differs from Phlx Options 3, Section 8(k)(A)(1),[51] which also provides, ''. . . or there is a Valid Width Quote, but there is no Quality Opening Market.'' BX, as noted herein, does not have a concept of a Quality Opening Market, but does have a concept of a Valid Width NBBO, which is always required, when attempting to open with a trade pursuant to Options 3 Section 8(d)(4). In addition, a Valid Width Quote is always required on Phlx pursuant to Options 3, Section 8(d), but the open is not required to be quoted by a Lead Market Maker on BX. Therefore, the third prong, a Valid Width Quote from a local Market Maker, in the Phlx rule text is unnecessary for BX.

Proposed BX Options 3, Section 8(k)(2), states that any new interest received by the System will update the Potential Opening Price. An update may not result in an immediate change to the Potential Opening Price, however, the Exchange will consider new interest as it arrives and update the Potential Opening Price accordingly based on existing interest and new interest. By way of example:

Case 1—An Update Which Does Not Result in a Change to Potential Opening Price

Valid Width NBBO = 0.20
CBOE market maker quotes 1.15 x 1.30 (10)
BX Market Maker quotes 1 x 1.25 (10)
Order to sell arrives for 1 contract @1.26 (Potential Opening Price updates, but determines there is no match, and therefore no change to lack of Potential Opening Price)
Order to buy arrives for 100 contracts @ 1.26 (Potential Opening Price updates, and changes to 1.26)
Order to buy arrives for 1000 contracts @1.24 (Potential Opening Price updates, but remains unchanged from 1.26)

Case 2—An Update Results in a Change to the Potential Opening Price

Valid Width NBBO = 0.20
CBOE market maker quotes 1.15 x 1.30 (10)
BX Market Maker quotes 1 x 1.25 (10)
Order to sell arrives for 1 contract @1.26 (Potential Opening Price updates, but determines there is no match, and therefore no change to lack of Potential Opening Price)
Order to buy arrives for 1000 contracts @1.24 (Potential Opening Price updates, but determines there is no match, and therefore no change to lack of Potential Opening Price)
Order to sell arrives for 1000 contracts @1.24 (Potential Opening Price updates and changes to 1.24)

If during or at the end of the Imbalance Timer, the Opening Price is at or within the OQR, the Imbalance Timer will end and the System will open with a trade at the Opening Price if the executions consist of Exchange interest only without trading through the ABBO, and without trading through the limit price(s) of interest within OQR, which is unable to be fully executed at the Opening Price. If no new interest comes in during the Imbalance Timer, and the Potential Opening Price is at or within OQR and does not trade through the ABBO, the Exchange will open with a trade at the end of the Imbalance Timer at the Potential Opening Price. This reflects that the Exchange is seeking to identify a price on the Exchange without routing away, yet which price may not trade through another market and the quality of which is addressed by applying the OQR boundary.

Provided the option series has not opened pursuant to proposed Options 3, Section 8(k)(2),[52] the System will send

[49] *See* current BX Options 3, Section 8(b)(3).

[50] The Phlx timer is currently set at 200 milliseconds. The Exchange will issue a notice to provide the initial setting and would thereafter issue a notice if it were to change the timing. If the Exchange were to select a time which exceeds 3 seconds, it would be required file a rule proposal with the Commission.

[51] Phlx Options 3, Section 8(k)(A)(1) provides, ''An Imbalance Message will be disseminated showing a ''0'' volume and a $0.00 price if: (i) No executions are possible but routable interest is priced at or through the ABBO; (ii) internal quotes are crossing each other; or (iii) there is a Valid Width Quote, but there is no Quality Opening Market. Where the Potential Opening Price is through the ABBO, an imbalance message will display the side of interest priced through the ABBO.''

[52] The System would not open pursuant to proposed Options 3, Section 8(k)(2) if the Potential Opening Price is outside of the OQR, or if the

a second Imbalance Message with a Potential Opening Price that is bounded by the OQR (and would not trade through the limit price(s) of interest within OQR, which is unable to be fully executed at the Opening Price) and includes away market volume in the size of the imbalance to Participants; and concurrently initiate a Route Timer, not to exceed one second.[53] The Route Timer is intended to give Exchange users an opportunity to respond to an Imbalance Message before any opening interest is routed to away markets and, thereby, maximize trading on the Exchange. If during the Route Timer, interest is received by the System, which would allow the Opening Price to be within OQR, without trading through away markets and without trading through the limit price(s) of interest within OQR, which is unable to be fully executed, the System will open with trades and the Route Timer will simultaneously end. The System will monitor quotes and orders received during the Route Timer period and make ongoing corresponding changes to the permitted OQR and Potential Opening Price to reflect them.[54] This proposal serves to widen the boundary of available Opening Prices, which should similarly increase the likelihood that an Opening Price can be determined. The Route Timer, like the Imbalance Timer, is intended to permit responses to be submitted and considered by the System in calculating the Potential Opening Price. The System does not route away until the Route Timer ends.

Proposed Options 3, Section 8(k)(3)(C) provides if no trade occurred pursuant to proposed Section 8(k)(3)(B), when the Route Timer expires, if the Potential Opening Price is within OQR (and would not trade through the limit price(s) of interest within OQR, which is unable to be fully executed at the Opening Price), the System will determine if the total number of contracts displayed at better prices than the Exchange's Potential Opening Price on away markets (''better priced away contracts'') would satisfy the number of marketable contracts available on the Exchange. This provision protects the unexecuted interest and should result in a fairer price.[55] The Exchange will open the option series by routing and/or trading on the Exchange, pursuant to proposed Options 3, Section 8(k)(3)(C) paragraphs (i) through (iii).

Proposed Options 3, Section 8(k)(3)(C)(i) provides if the total number of better priced away contracts would satisfy the number of marketable contracts available on the Exchange on either the buy or sell side, the System will route all marketable contracts on the Exchange to such better priced away markets as Intermarket Sweep Order (''ISO''),[56] designated as Immediate-or-Cancel (''IOC'')[57] Order(s), and determine an opening BX Best Bid or Offer (''BBO'') that reflects the interest remaining on the Exchange. The System will price any contracts routed to away markets at the Exchange's Opening Price or pursuant to proposed Options 3, Section 8(k)(3)(C)(ii) or (iii) described below. Routing away at the Exchange's Opening Price is intended to achieve the best possible price available at the time the order is received by the away market.

Proposed Options 3, Section 8(k)(3)(C)(ii) provides if the total number of better priced away contracts would not satisfy the number of marketable contracts the Exchange has, the System will determine how many contracts it has available at the Exchange Opening Price. If the total number of better priced away contracts, plus the number of contracts available at the Exchange Opening Price, would satisfy the number of marketable contracts on the Exchange on either the buy or sell side, the System will contemporaneously route, based on price/time priority of routable interest, a number of contracts that will satisfy interest at away markets at prices better than the Exchange Opening Price and trade available contracts on the Exchange at the Exchange Opening Price. The System will price any contracts routed to away markets at the better of the Exchange Opening Price or the order's limit price pursuant to this subparagraph. This continues with the theme of maximum possible execution of the interest on the Exchange or away markets.

Proposed Options 3, Section 8(k)(3)(C)(iii) provides if the total number of better priced away contracts, plus the number of contracts available at the Exchange Opening Price, plus the contracts available at away markets at the Exchange Opening Price would satisfy the number of marketable contracts the Exchange has on either the buy or sell side, the System will contemporaneously route, based on price/time priority of routable interest, a number of contracts that will satisfy interest at away markets at prices better than the Exchange Opening Price (pricing any contracts routed to away markets at the better of the Exchange Opening Price or the order's limit price), trade available contracts on the Exchange at the Exchange Opening Price, and route a number of contracts that will satisfy interest at away markets at prices equal to the Exchange Opening Price. This provision is intended to introduce routing to away markets potentially both at a better price than the Exchange Opening Price, as well as at the Exchange Opening Price to access as much liquidity as possible to maximize the number of contracts able to be traded as part of the Opening Process. The Exchange routes at the better of the Exchange's Opening Price or the order's limit price to first ensure the order's limit price is not violated. Routing away at the Exchange's Opening Price is intended to achieve the best possible price for the routed order,

Potential Opening Price is at or within the OQR, but would otherwise trade through the ABBO, or through the limit price(s) of interest within the OQR, which is unable to be fully executed at the Potential Opening Price.

[53] The Route Timer would be a brief timer that operates as a pause before an order is routed to an away market. Currently, the Phlx Route Timer is set to one second. BX's Route Timer will also be initially set to one second. The Exchange will issue a notice to Members to provide the initial setting and would thereafter issue a notice to Members, if it were to change the timing within the range of up to one second. If the Exchange were to select a time beyond one second, it would be required file a rule proposal with the Commission.

[54] *See* proposed BX Options 3, Section 8(k)(3)(B).

[55] Current BX Options 3, Section 8(b)(4)(C) considers unexecuted contracts. The proposed Opening Process likewise serves to protect unexecuted interest and also execute as many contract as possible during the Opening Process. The System will price any contracts routed to away markets at the better of the Exchange Opening Price or the order's limit price. Any unexecuted contracts from the imbalance not traded or routed will be cancelled back to the entering participant if they remain unexecuted and priced through the Opening Price. All other interest will be eligible for trading after opening, if consistent with the Participant's instruction as provided for within proposed Options 3, Section 8(k)(3)(E) pursuant to a Forced Opening.

[56] BX Options 3, Section 7(a)(6) provides that an ''Intermarket Sweep Order'' or ''ISO'' are limit orders that are designated as ISOs in the manner prescribed by BX and are executed within the System by Participants at multiple price levels without respect to Protected Quotations of other Eligible Exchanges as defined in Options 5, Section 1. ISOs may have any time-in-force designation except WAIT, are handled within the System pursuant to Options 3, Section 10 and shall not be eligible for routing as set out in Options 3, Section 19. ISOs with a time-in-force designation of GTC are treated as having a time-in-force designation of Day.

[57] BX Options 3, Section 7(b)(2) provides that an ''Immediate Or Cancel'' or ''IOC'' shall mean for orders so designated, that if after entry into the System a marketable order (or unexecuted portion thereof) becomes non-marketable, the order (or unexecuted portion thereof) shall be canceled and returned to the entering participant. IOC Orders shall be available for entry from the time prior to market open specified by the Exchange on its website until market close and for potential execution from 9:30 a.m. until market close. IOC Orders entered between the time specified by the Exchange on its website and 9:30 a.m. Eastern Time will be held within the System until 9:30 a.m. at which time the System shall determine whether such orders are marketable.

at the time the order is received by the away market. By way of example:

Example of Interest ''*Better Than*'' *and* ''*Better of the Exchange Opening Price*'' *rule text:* Options 3, Section 8(k)(3)(C)(ii), Options 3, Section 8(k)(3)(C)(iii) and Options 3, Section 8(k)(5)

BX Market Maker 1 BBO 4.00 x 4.15 (100 contracts)
Cboe 4.00 x 4.14 (100 contracts)
DNR Order to buy 105 @4.20
Routable SRCH Order to buy 100 contracts at 4.18
Sell 2 contracts @4.21
After imbalance process:
SRCH Order routes at limit price of 4.18 (better than Opening Price of 4.20) and executes at 4.14 on Cboe's offer.
DNR Order trades 100 with BX Market Maker quote (quote purges)

Proposed Options 3, Section 8(k)(3)(D) provides that the System may send up to two additional Imbalance Messages [58] (which may occur while the Route Timer is operating) bounded by OQR and reflecting away market interest in the volume. These boundaries are intended to assist in determining a reasonable price at which an option series might open. This provision is proposed to further state that after the Route Timer has expired, the processes in proposed Options 3, Section 8(k)(3)(C)(3) will repeat (except no new Route Timer will be initiated). No new Route Timer is initiated, because after the Route Timer has been initiated and subsequently expired, no further delay is needed before routing contracts. This is the case if at any point thereafter the Exchange is able to satisfy the total number of marketable contracts the Exchange has by executing on the Exchange and routing to other markets.

Proposed Options 3, Section 8(k)(3)(E), entitled ''Forced Opening,'' will describe what happens as a last resort in order to open an options series when the processes described above have not resulted in an opening of the options series. Under this process, called a Forced Opening, after all additional Imbalance Messages have occurred, pursuant to proposed subparagraph (D), the System will open the series by executing as many contracts as possible by routing to away markets at prices better than the Exchange Opening Price for their disseminated size, trading available contracts on the Exchange at the Exchange Opening Price bounded by OQR (without trading through the limit price(s) of interest within OQR, which is unable to be fully executed at the Opening Price). The System will also route contracts to away markets at prices equal to the Exchange Opening Price at their disseminated size. In this situation, the System will price any contracts routed to away markets at the better of the Exchange Opening Price or the order's limit price. Any unexecuted interest from the imbalance not traded or routed will be cancelled back to the entering Participant, if they remain unexecuted and priced through the Opening Price, otherwise orders will remain in the Order Book. All other interest will be eligible for trading after opening, if consistent with the Participant's instruction. The boundaries of OQR and limit prices within the OQR are intended to ensure a quality Opening Price as well as protect unexecutable interest, which may not be able to be fully executed. This rule differs from Phlx's rule.[59] On Phlx, unless the member that submitted the original order has instructed the Exchange in writing to reenter the remaining size, the remaining size will be automatically submitted as a new order, whereas BX's proposed rule will cancel the order back to the entering party. The Exchange believes that cancelling the order back to the Participant allows for the Participant to determine how its customer would like its order to be handled. The Exchange believes that there are many methods in which to handle an order that is not executed. BX proposes to cancel back to provide certainty to its Participants, in line with current handling on BX.

Proposed Options 3, Section 8(k)(3)(F), provides the System will execute non-routable orders, such as ''Do-Not-Route'' or ''DNR'' Orders,[60] to the extent possible. The System will only route non-contingency orders.[61] Unlike Phlx,[62] which describes contingency orders, BX does not have contingency orders that participate in the Opening Process.[63] The Exchange is adding this detail to memorialize the manner in which the System will execute non-routable orders at the opening. The Exchange desires to provide certainty to market participants as to which contingency orders will execute, and which orders will route during the Opening Process.

The Exchange proposes to state at Options 3, Section 8(k)(4) that, pursuant to Options 3, Section 8(k)(3)(F), the System will re-price Do Not Route Orders (that would otherwise have to be routed to the exchange(s) disseminating the ABBO for an opening to occur) to a price that is one minimum trading increment inferior to the ABBO, and disseminate the re-priced DNR Order as part of the new BBO. This paragraph explains the treatment of DNR Orders, similar to Phlx Options 3, Section 8(k)(3)(D). The System will re-price a DNR Order when any residual DNR Order interest, which was not satisfied in the Opening Process, crosses the ABBO.[64]

Proposed BX Options 3, Section 8(k)(5) provides that the System will cancel any order or quote priced through the Opening Price. All other interest will be eligible for trading after the opening. This rule text is similar to Phlx Options 3, Section 8(k)(G). This rule text makes clear that interest priced through the Opening will be cancelled.

Proposed BX Options 3, Section 8(k)(6), which is identical to Phlx Options 3, Section 8(k)(E), provides that during the opening of the option series, where there is an execution possible, the System will give priority to Market Orders [65] first, then to resting Limit

[58] The first two Imbalance Messages always occur if there is interest which will route to an away market. If the Exchange is thereafter unable to open at a price without trading through the ABBO, up to two more Imbalance Messages may occur based on whether or not the Exchange has been able to open before repeating the Imbalance Process. The Exchange may open prior to the end of the first two Imbalance Messages provided routing is not necessary.

[59] Phlx Options 3, Section 8(k)(C)(5), ''Forced Opening. After all additional Imbalance Messages have occurred pursuant to paragraph (4) above, the System will open the series by executing as many contracts as possible by routing to away markets at prices better than the Exchange Opening Price for their disseminated size, trading available contracts on the Exchange at the Exchange Opening Price bounded by OQR (without trading through the limit price(s) of interest within OQR which is unable to be fully executed at the Opening Price), and routing contracts to away markets at prices equal to the Exchange Opening Price at their disseminated size. In this situation, the System will price any contracts routed to away markets at the better of the Exchange Opening Price or the order's limit price. Any unexecuted interest from the imbalance not traded or routed will be cancelled back to the entering participant if they remain unexecuted and priced through the Opening Price, unless the member that submitted the original order has instructed the Exchange in writing to reenter the remaining size, in which case the remaining size will be automatically submitted as a new order. All other interest will be eligible for trading after opening, if consistent with the member's instructions.''

[60] A Do-Not-Route Order is described within BX Options 5, Section 4(a)(iii)(A).

[61] Phlx's Rule at Options 3, Section 8(k)(6) states that the System will only route Public Customer and Professional orders. BX will allow all orders to route not just Public Customer and Professional orders.

[62] *See* Phlx Options 3, Section 8(k)(C)(6).

[63] BX Minimum Quantity Orders and All-or-None Orders, which are described within Options 3, Section 7(a)(4) and (8), respectively, are both Immediate or Cancel Orders, which are rejected pre-opening and therefore do not participate in the Opening Process.

[64] *See* proposed BX Options 3, Section 8(k)(4).

[65] BX Options 3, Section 7(a)(5) provides that ''Market Orders'' are orders to buy or sell at the best

Orders[66] and quotes. The allocation provisions of Options 3, Section 10 will apply. Options 3, Section 10 describes BX's Order Book allocation. The Exchange is providing certainty to market participants as to the priority scheme during the Opening Process. Market Orders will be immediately executed first, because these orders have no specified price and Limit Orders will be executed, thereafter, in accordance with the prices specified.

Proposed BX Options 3, Section 8(k)(7),which is identical to Phlx Options 3, Section 8(k)(F), provides that upon opening of an option series, regardless of an execution, the System disseminates the price and size of the Exchange's best bid and offer (BBO). This provision simply makes known the manner in which the Exchange establishes the BBO for purposes of reference upon opening.

Finally, proposed BX Options 3, Section 8(k)(8) provides that any remaining contracts, which are not priced through the Exchange Opening Price after routing a number of contracts to satisfy better priced away contracts, will be posted to the Order Book at the better of the away market price or the order's limit price. This includes DNR Orders that are not crossed with the Opening Price. Only in the event that ABBO interest, which the DNR Order would otherwise be crossing, has been satisfied by routable interest during the Opening Process would DNR Orders be included within the remaining contracts described in proposed BX Options 3, Section 8(k)(8).[67] This rule text accounts for orders which have routed away and returned unsatisfied, and also accounts for interest that remains unfilled during the Opening Process, provided that interest was not priced through the Opening Price.

The Exchange cancels orders, which are priced through the Opening Price, since it lacks enough liquidity to satisfy these orders on the opening, yet their limit price gives the appearance that they should have been executed. The Exchange believes that market participants would prefer to have these orders returned to them for further assessment, rather than have these orders immediately entered onto the Order Book at a price which is more aggressive than the price at which the Exchange opened.

Opening Process Cancel Timer

The Exchange proposes to retain BX's Opening Order Cancel Timer, which is currently described within Options 3, Section 8(c). The Exchange proposes to relocate this rule text within Options 3, Section 8(l), similar to Phlx Options 3, Section 8(l), and rename it ''Opening Process Cancel Timer.'' While the Exchange is retaining the timer, the Exchange proposes to amend the rule text to conform the language to Phlx's rule text. This process specifies that if an options series has not opened before the conclusion of the Opening Process Cancel Timer, a Participant may elect to have orders returned by providing written notification to the Exchange. The Opening Process Cancel Timer will continue to be posted by the Exchange on its website. Orders submitted through FIX with a TIF of Good-Till-Canceled[68] or ''GTC'' may not be cancelled, as is the case today. This provision would provide for the continued return of orders for un-opened options symbols. As is the case today, Participants would have the ability to elect to have orders returned, except for non-GTC orders, when options do not open. This functionality provides Participants with choice about where, and when, they can send orders for the opening that would afford them the best experience.

Opening Process Examples

The following examples are intended to demonstrate the Opening Process.

Example 1. Proposed Options 3, Section 8(f) Opening with a BBO (No Trade). Suppose the Lead Market Maker (''LMM'') in an option enters a quote, 2.00 (100) bid and 2.10 (100) offer and a buy order to pay 2.05 for 10 contracts is present in the System. The System also observes an ABBO is present with CBOE quoting a spread of 2.05 (100) and 2.15 (100). Given the Exchange has no interest which locks or crosses each other and does not cross the ABBO, the option opens for trading with an Exchange BBO of 2.05 (10) × 2.10 (100) and no trade. Since there is a Valid Width NBBO, the System does not conduct the price discovery mechanism and the option opens without delay.

Example 2a. Proposed Options 3, Section 8(i) Opening with Trade. Suppose the LMM enters the same quote in an option, 2.00 (100) bid and 2.10 (100) offer. This quote defines the Pre-Market BBO. CBOE disseminates a quote of 2.01 (100) by 2.09 (100), making up the ABBO. Firm A enters a buy order at 2.04 for 50 contracts. Firm B enters a sell order at 2.04 for 50 contracts. The Exchange opens with the Firm A and Firm B orders fully trading at an Opening Price of 2.04 which satisfies the condition defined in proposed Options 3, Section 8(i), the Potential Opening Price is at or within the best of the Pre-Market BBO and the ABBO, which is a Valid Width NBBO.

Example 2b. Proposed Options 3, Section 8(i) Opening with Trade. Similarly, suppose the LMM enters the same quote in an option, 2.00 (100) bid and 2.10 (100) offer. A Market Maker enters a quote of 2.00 (100) × 2.12 (100). The Pre-Market BBO is therefore 2.00 bid and 2.10 offer. CBOE disseminates a quote of 2.05 (100) by 2.15 (100), making up the ABBO. Firm A enters a buy order at 2.11 for 300 contracts. Firm B enters a sell order at 2.11 for 100 contracts. The option does not open for trading because the Potential Opening Price of 2.11 does not satisfy the condition defined in proposed Options 3, Section 8(i) as the Potential Opening Price is outside the Pre-Market BBO. The System thereafter calculates the OQR and initiates the price discovery mechanism, as discussed in proposed Options 3, Section 8(k) to facilitate the Opening Process for the option.

Assume an allowable OQR of 0.04. When the price discovery mechanism is initiated:

The System broadcasts the first Imbalance Message with a Potential Opening Price of 2.10 and a sell side imbalance of 200 and 100 matched.

The System opens with a trade @2.11 with Firm A buying 100 from the LMM and another 100 from Firm B; invoking OQR of 0.04 (the maximum value for OQR is the lowest quote offer (2.10) plus 0.04).

Example 3. Proposed Options 3, Section 8(k) Price Discovery Mechanism and second iteration with routing. Suppose the LMM enters a quote, 2.00 (100) bid and 2.10 (100) offer and the defined allowable OQR is 0.04. If CBOE disseminates a quote of 2.00 (100) by

price available at the time of execution. Participants can designate that their Market Orders not executed after a pre-established period of time, as established by the Exchange, will be cancelled back to the Participant.

[66] BX Options 3, Section 7(a)(3) provides that ''Limit Orders'' are orders to buy or sell an option at a specified price or better. A limit order is marketable when, for a limit order to buy, at the time it is entered into the System, the order is priced at the current inside offer or higher, or for a limit order to sell, at the time it is entered into the System, the order is priced at the inside bid or lower.

[67] DNR Orders that are not crossed with the Opening Price rest on the Order Book at the better of the ABBO price or the DNR Order's limit order price.

[68] BX Options 3, Section 7(b)(4) provides that a ''Good Til Cancelled'' or ''GTC'' shall mean for orders so designated, that if after entry into System, the order is not fully executed, the order (or unexecuted portion thereof) shall remain available for potential display and/or execution unless cancelled by the entering party, or until the option expires, whichever comes first. GTC Orders shall be available for entry from the time prior to market open specified by the Exchange on its website until market close and for potential execution from 9:30 a.m. until market close.

2.09 (100), the away offer is better than the LMM quote. Public Customer A enters a routable buy order at 2.10 for 150 contracts. The price discovery mechanism initiates because the Potential Opening Price (2.10) is equal to the Pre-Market BBO but outside of the ABBO. The Potential Opening Price is 2.10 because there is both buy and sell interest at that price point. The System is unable to open after the first iteration of Imbalance since the Potential Opening Price is within the OQR but outside of the ABBO. The System proceeds with the price discovery mechanism and initiates a Route Timer and broadcasts a second Imbalance Message (assume no additional interest is received during the imbalance period). The System opens the option for trading after the Route Timer has expired and the Imbalance Timer has completed since the Potential Opening Price is within OQR. The System routes 100 contracts of the Public Customer order to the better priced away offer at CBOE. The Exchange would route to CBOE at an Opening Price of 2.10 to execute against the interest at 2.09 on CBOE. The 50 options contracts open and execute on the Exchange with an Opening Price of 2.10. The Exchange routes to CBOE using the Exchange's Opening Price to ensure, if there is market movement, that the routed order is able to access any price point equal to or better than the Exchange's Opening Price.

Options 2, Section 4

The Exchange proposed to define a ''Valid Width Quote'' within proposed Options 3, Section 8(a)(9) as ''a two-sided electronic quotation, submitted by a Market Maker, quoted with a difference not to exceed $5 between the bid and offer regardless of the price of the bid.'' The Exchange proposed to state within proposed BX Options 3, Section 8(a)(9), similar to Phlx's Rule at Options 3, Section 8(a)(ix), that the ''The Exchange may establish differences other than the above for one or more series or classes of options.'' The Exchange proposes to remove the rule text from Options 2, Section 4(g) and reserve that subparagraph. Options 2, Section 4(g) provides,

(g) *Unusual Conditions—Opening Auction.* If the interest of maintaining a fair and orderly market so requires, BX Regulation may declare that unusual market conditions exist in a particular issue and allow LMMs in that issue to make auction bids and offers with spread differentials of up to two times, or in exceptional circumstances, up to three times, the legal limits permitted under this Rule. In making such determinations to allow wider markets, BX Regulation should consider the following factors: (A) Whether there is pending news, a news announcement or other special events; (B) whether the underlying security is trading outside of the bid or offer in such security then being disseminated; (C) whether Options Participants receive no response to orders placed to buy or sell the underlying security; and (D) whether a vendor quote feed is clearly stale or unreliable.

(1) In the event that BX Regulation determines that unusual market conditions exist in any option, it will be the responsibility of BX Regulation to file a report with Exchange Operations setting forth the relief granted for the unusual market conditions, the time and duration of such relief and the reasons therefore.

Phlx's Rule at Options 3, Section 8(a)(ix) allows the Exchange to establish differences, other than those noted within Options 3, Section 8(a)(ix), for one or more series or classes of options. The Exchange is proposing to add similar discretion to proposed BX Options 3, Section 8(a)(9). The rule text of BX Options 2, Section 4(g) permits spread differentials of up to two times, or in exceptional circumstances, up to three times, the legal limits permitted under this Rule. This limitation does not exist today on Phlx, Nasdaq ISE, LLC (''ISE''), Nasdaq GEMX, LLC (''GEMX'') or Nasdaq MRX, LLC (''MRX'').[69] Today, BX Regulation takes into account: (A) Whether there is pending news, a news announcement or other special events; (B) whether the underlying security is trading outside of the bid or offer in such security then being disseminated; (C) whether Options Participants receive no response to orders placed to buy or sell the underlying security; and (D) whether a vendor quote feed is clearly stale or unreliable, in making such determinations when granting quoting discretion. The ability to establish differences, other than the stated bid/ask differentials, for one or more series or classes of options already exists today for BX Lead Market Maker quoting requirements, however this discretion in the opening is limited by BX Options 2, Section 4(g).[70] The Exchange's proposal would align the procedure BX would follow with procedures of other Nasdaq options exchanges, which notify members in writing, via an Options Regulatory Alert, of any discretion that is being granted by the Exchange. BX would no longer file a report with BX operations. Today, no other Nasdaq exchange files a report when it grants exemptions in the opening, including exemptions for BX Market Makers. The Exchange notes that decisions to grant exemptions in the opening are made based on current market conditions. BX is required to react swiftly when market conditions change dramatically and, thereby, may require BX to grant quoting relief in the opening. The additional steps that are currently required on BX are not conducive to granting relief in fast changing markets. The Exchange notes that other options markets do not limit the quote relief they would grant their lead market makers in the same manner as BX limits quote relief for its Lead Market Makers. The Exchange believes that permitting BX to have the same discretion as Phlx, ISE, GEMX and MRX will assist the Exchange in making similar determinations to affected options series.

Implementation

The Exchange intends to begin implementation of the proposed rule change prior to October 30, 2020. The Exchange will issue an Options Trader Alert to Members to provide notification of the symbols that will migrate and the relevant dates.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[71] in general, and furthers the objectives of Section 6(b)(5) of the Act,[72] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest for the reasons stated below.

The Exchange's proposal to amend BX's Opening Process is consistent with the Act. The Exchange believes that adopting some methodologies similar to Phlx Options 3, Section 8 will enhance BX's current Opening Process, while retaining certain elements of its current process, such as the Valid Width NBBO[73] and not requiring its Lead Market Makers to quote during the Opening Process.[74] Also, the proposed amendments will continue to allow BX

[69] ISE, GEMX and MRX Rules at Options 3, Section 8(a)(8) provides the same discretionary language as exists on Phlx today.

[70] *See* BX Options 2, Section 4(f)(5).

[71] 15 U.S.C. 78f(b).

[72] 15 U.S.C. 78f(b)(5).

[73] The Exchange proposes to retain the Valid Width NBBO requirements with respect to Opening With a Trade pursuant to proposed Options 3, Section 8(i) and (j).

[74] Today, BX Lead Market Makers may quote during the opening, but they are not obligated to quote. BX Lead Market Makers are required to quote intra-day. *See* BX Options 2, Section 4(j).

to open with an optimal price, as the proposed rule further limits the opening price boundaries. At a high level, the proposal would permit the price of the underlying security to settle down and not flicker back and forth among prices after its opening. It is common for a stock to fluctuate in price immediately upon opening; such volatility reflects a natural uncertainty about the ultimate Opening Price, while the buy and sell interest is matched. The proposed rule provides for a range of no less than 100 milliseconds and no more than 5 seconds, in order to ensure that it has the ability to adjust the period for which the underlying security must be open on the primary market. The Exchange may determine that in periods of high/low volatility that allowing the underlying to be open for a longer/shorter period of time may help to ensure more stability in the marketplace prior to initiating the Opening Process.

Definitions

The Exchange's proposal amends and alphabetizes the current definitions within Options 3, Section 8(a). The Exchange proposes to set forth the following terms: ''Away Best Bid or Offer'' or ''ABBO;'' ''imbalance;'' ''market for the underlying security;'' ''Opening Price;'' ''Opening Process;'' ''Potential Opening Price;'' ''Pre-Market BBO;'' ''Valid Width National Best Bid or Offer'' or ''Valid Width NBBO;'' ''Valid Width Quote,'' and ''Zero Bid Market.'' The amendment of the ''Definitions'' section is consistent with the Act because the terms will assist market participants in understanding the meaning of terms used throughout the proposed Rule.

With respect to the amendment to the definition of the term, ''market for the underlying security,'' the Exchange's proposal would remove the concept of a primary volume market and replace that concept with an alternative market designated by the primary market. It is most likely the case that the primary market is the primary volume market, so this term offers no contingency in most cases. The primary market has the ability to designate an alternate primary market when the primary market is experiencing difficulties. In those situations, the Exchange proposes to utilize the alternate primary market to open its market. For example, in the event that the New York Stock Exchange LLC was unable to open because of an issue with its market and it designated NYSE Arca as its alternative market, then BX would utilize NYSE Arca as the market for the underlying security.

Second, the Exchange proposes another alternative in the event that the primary market does not open, and an alternate primary market is not designated and/or is also unable to open. In this situation, the Exchange proposes to utilize a non-primary market to open its market. The Exchange will select the non-primary market with the most liquidity in the aggregate for all underlying securities from the primary market for the previous two calendar months, excluding the primary and alternate markets. For example, in the event that the New York Stock Exchange LLC was unable to open because of an issue with its market and it designated NYSE Arca as its alternative market, and the alternate primary was unable to open or NYSE was unable to designate an alternate market because of system difficulties, then BX would determine which non-primary market had the most liquidity in the aggregate for all underlying securities for the previous two calendar months, excluding the primary and alternate markets. The Exchange would utilize that market to open all underlying securities from the primary market. In order to open an option series it would require an equity market's underlying quote. Utilizing a non-primary market with the most liquidity in the aggregate for all underlying securities for the previous two calendar months will ensure that the Exchange opens based on the next best alternative to the primary market given the circumstances. This contingency will provide the Exchange with the ability to open in situations where the primary market is experiencing an issue, and also where an alternative primary market may also be impacted. The Exchange believes that this proposal would protect investors and the general public by providing additional venues for BX to utilize as part of its Opening Process and thereby allow investors to transact on its market. The Exchange desires to open its market despite any issues that may arise with the underlying market. The Exchange is proposing alternate methods to open its market to account for situations which may arise if the primary market is unable to open, and if the proposed alternate designated market is unable to open. Once the market opens with an underlying price, the options market may continue to trade for the remainder of the trading day. The Exchange believes it benefits investors and the general public to have the options market available to enter new positions, or close open positions. This term is identical to Phlx's Options 3, Section 8(a)(ii).

Eligible Interest

The first part of the proposed BX Opening Process determines what constitutes eligible interest. The Exchange's proposal seeks to make clear what type of eligible opening interest is included. Valid Width Quotes, Opening Sweeps, and orders are included. The Exchange further notes that Market Makers may submit quotes, Opening Sweeps and orders, but quotes other than Valid Width Quotes will not be included in the Opening Process. The Exchange believes that defining what qualifies as eligible interest is consistent with the Act because market participants will be provided with certainty, when submitting interest, as to which type of interest will be considered in the Opening Process.

Unlike the regular session where orders route if they cannot execute on BX, the Opening Process is a price discovery process which considers interest, both on BX and away markets, to determine the optimal bid and offer with which to open the market. The Opening Process seeks the price point at which the most number of contracts may be executed while protecting away market interest.

The Exchange's proposal to define an ''Opening Sweep'' within BX Options 3, Section 7(b)(9), similar to Phlx Options 3, Section 7(b)(i), will also align the BX and Phlx rules. Specifically, the Exchange proposes to remove the current order type described as ''On the Open Order'' and instead adopt an ''Opening Sweep'' order type, similar to Phlx at Options 3, Section 7(b)(6). The adoption of an Opening Sweep is consistent with the Act because the order type will permit Market Makers to continue to submit orders during the Opening Process for execution against eligible interest in the System. Other market participants may continue to also submit orders with a TIF of ''OPG'' for the Opening Process. As is the case today, only a Market Maker may enter an Opening Sweep into SQF for execution against eligible interest in the System during the Opening Process. Therefore, all Participants will continue to be able to enter orders into the Opening Process. The order types are very similar; both order types are cancelled upon the open if not executed. A difference is that the Opening Sweep is not subject to any risk protections listed within Options 3, Section 15, except for Automated Quotation Adjustments.[75]

BX also proposes to replace its current ''TIF'' of ''On the Open Order'' or

[75] Automated Quotation Adjustments are described within BX Options 3, Section 15(c)(2).

''OPG'' to an ''Opening Only'' or ''OPG'' TIF, which can only be executed in the Opening Process pursuant to Options 3, Section 8.[76] This TIF is similar to Phlx, in that, any portion of the order that is not executed during the Opening Process is cancelled. This order type is not subject to any protections listed in Options 3, Section 15.[77] The Exchange believes that the adoption of the Opening Sweep and OPG Order is consistent with the Act in that Participants will be able to continue to submit orders to be entered into the Opening Process. The two orders types will conform Phlx's order types, which are relevant to the Opening Process, with those of BX. These order types would continue to not be not valid outside of the Opening Process; they may not be submitted in the regular trading session.

With respect to an Opening Sweep, the Exchange further provides the manner in which Opening Sweeps may be entered into the System. The Exchange proposes rule text within Options 3, Section 8(b)(1)(B), which is similar to Phlx Options 3, Section 8(b)(i)(B). An Opening Sweep may be entered at any price with a minimum price variation applicable to the affected series, on either side of the market, at single or multiple price level(s), and may be cancelled and re-entered. A single Market Maker may enter multiple Opening Sweeps, with each Opening Sweep at a different price level. If a Market Maker submits multiple Opening Sweeps, the System will consider only the most recent Opening Sweep at each price level submitted by such Market Maker. Unexecuted Opening Sweeps will be cancelled once the affected series is open.[78] The Exchange believes that the addition of Opening Sweeps will also provide certainty to market participants as to the manner in which the System will handle such interest.

With respect to trade allocation, the proposal notes at proposed BX Options 3, Section 8(b)(2) that the System will allocate pursuant to BX Options 3, Section 10, as is the case today. This rule text is similar to Phlx Options 3, Section 8(b)(ii).[79] The allocation methodology is not being amended with this proposal.

The Exchange believes that this allocation is consistent with the Act because it mirrors the current allocation process on BX in other trading sessions.

The Exchange proposes at BX Options 3, Section 8(d) the specific times that eligible interest may be submitted into BX's System. The Exchange's proposed time for entering Market Maker Valid Width Quotes and Opening Sweeps (9:25 a.m.) eligible to participate in the Opening Process, are consistent with the Act because the times are intended to tie the option Opening Process to quoting in certain underlying securities;[80] it presumes that option quotes submitted before any indicative quotes have been disseminated for the underlying security may not be reliable or intentional. The Exchange believes the time represents a reasonable timeframe at which to begin utilizing option quotes, based on the Exchange's experience when underlying quotes start becoming available. The proposed language adds specificity to the rule regarding the submission of orders.

The Exchange's proposal at BX Options 3, Section 8(d)(1) describes when the Opening Process can begin with specific time-related triggers. The proposed rule, which provides that the Opening Process for an option series will be conducted on or after 9:30 a.m., when the System has received an opening trade or quote on the market for the underlying security in the case of equity options or in the case of index options is consistent with the Act. This requirement is intended to tie the option Opening Process to receipt of liquidity. If the System has not received an opening trade or quote on the market for the underlying security, the Exchange will not initiate the Opening Process or continue an ongoing Opening Process. The Exchange's proposal to amend its Opening Process is consistent with the Act because the new rule continues to seek the best price. Phlx Rules at Options 3, Section 8(d)(iii) and (iv) describe quoting requirements for Lead Market Makers once an underlying security in the assigned option series has opened for trading. Today, BX, unlike Phlx, does not require its Lead Market Makers to submit Valid Width Quotes. BX is not proposing to adopt the same quoting requirements during the Opening Process that exist on Phlx. Therefore, the Phlx requirement for Lead Market Makers would not be applicable to BX. Further, proposed BX Options 3, Section 8(d)(3) makes clear that the Opening Process will stop and an option series will not open if the ABBO becomes crossed. Therefore, the Exchange does not note within proposed Options 3, Section 8(d)(1) that the ABBO may not be crossed. While, BX is not adopting Phlx's requirement to quote in the Opening Process, protections exist within proposed Options 3, Section 8(d)(4). A Valid Width NBBO must be present for BX to Open with a Trade pursuant to this proposal.

The Exchange's proposed rule considers the underlying security, including indexes, which must be open on the primary market for a certain time period for all options to be determined by the Exchange for the Opening Process to commence. The Exchange proposes a time period be no less than 100 milliseconds and no more than 5 seconds to permit the price of the underlying security to settle down and not flicker back and forth among prices after its opening. Since it is common for a stock to fluctuate in price immediately upon opening, the Exchange accounts for such volatility in its process. The volatility reflects a natural uncertainty about the ultimate Opening Price, while the buy and sell interest is matched. The Exchange's proposed range is consistent with the Act, because it ensures that it has the ability to adjust the period for which the underlying security must be open on the primary market. The Exchange may determine that in periods of high/low volatility that allowing the underlying to be open for a longer/shorter period of time may help to ensure more stability in the marketplace prior to initiating the Opening Process.

Similar to Phlx Options 3, Section 8(d)(v), BX Options 3, Section 8(d)(3) provides that the Opening Process will stop and an option series will not open if the ABBO becomes crossed. Once this condition no longer exists, the Opening Process in the affected option series will start again pursuant to paragraphs (f)–(k) of Options 3, Section 8. All eligible opening interest will continue to be considered during the Opening Process when the process is re-started. Not opening if the ABBO becomes crossed is

[76] *See* current BX Options 3, Section 7(a)(9).

[77] Phlx Options 3, Section 7(c)(3) provides that an OPG Order is not subject to any protections listed in Options 3, Section 15, except for Automated Quotation Adjustments. Today, OPG Orders on Phlx are not subject to any protections, including Automated Quotation Adjustments protections. Phlx intends to file a rule change to remove the rule text which provides, ''except for Automated Quotation Adjustments,'' as OPG Orders are subject to that risk protection. BX will not include the exception in the proposed rule text. OPG Orders are handled in the same manner by the Phlx System today and the BX System, as proposed.

[78] *See* proposed BX Options 3, Section 8(b)(1)(B). *See also* proposed BX Options 3, Section 7(a)(9).

[79] Current BX Options 3, Section 8(b)(5) states, ''If the BX Opening Cross price is selected and fewer than all contracts of Eligible Interest that are available in BX Options would be executed, all Eligible Interest shall be executed at the BX Opening Cross price in accordance with the execution algorithm assigned to the associated underlying option.'' The Exchange would continue to allocate pursuant to the Exchange's allocation methodology within Options 3, Section 10. Further, in accordance with current BX Options 3, Section 8(b)(6), all eligible interest will be executed at the Opening Price and displayed on OPRA.

[80] For purposes of this rule, the underlying security can also be an index.

consistent with the Act and the protection of investors and the public interest because a crossed ABBO is indicative of uncertainty in the marketplace with respect to where the option series should be valued. Waiting for the ABBO to become uncrossed before initiating the Opening Process ensures that there is stability in the marketplace and will assist the Exchange in determining the Opening Price. Unlike Phlx Options 3, Section 8(d)(v),[81] BX will not consider if a Valid Width Quote(s) is no longer present. Unlike Phlx, BX does not require its Lead Market Makers to quote in the Opening Process. This requirement is not necessary for BX as BX's market would open with a BBO, pursuant to Options 3, Section 8(f), unless the ABBO becomes crossed.

The Exchange's proposal to add rule text, within proposed Options 3, Section 8(d)(4), to make clear that the Exchange would not open with a trade, pursuant to paragraph (i)(2), if a Valid Width NBBO is not present is consistent with the Act. Once this condition no longer exists, the Opening Process in the affected options series will start again pursuant to paragraphs (j) and (k) below. Today, BX would not open with a trade unless there is a Valid Width NBBO present. This would remain the case with this proposal. The Exchange believes that the addition of this text provides market participants with an expectation of the circumstances under which the Exchange would open an option series, as well as price protection afforded to interest attempting to participate in the Opening Process on BX.

Reopening After a Trading Halt

In order to provide certainty to market participants in the event of a trading halt, the Exchange provides in its proposal information regarding the manner in which a trading halt would impact the Opening Process. Proposed BX Options 3, Section 8(e) provides if there is a trading halt or pause in the underlying security, the Opening Process will start again, irrespective of the specific times listed in paragraph (d). The Exchange's proposal to restart, in the event of a trading halt, is consistent with the Act and promotes just and equitable principles of trade because the proposed rule ensures that there is stability in the marketplace in order to assist the Exchange in determining the Opening Price. Current BX Options 3, Section 8(b) similarly provides that an Opening Cross shall occur when trading resumes after a trading halt. The Exchange is not amending this provision, rather the text is being presented similar to Phlx's Options 3, Section 8.

Opening With a BBO

The Exchange's proposed rule accounts for a situation where there are no opening quotes or orders that lock or cross each other and no routable orders locking or crossing the ABBO. In this situation, the System will open with an opening quote by disseminating the Exchange's best bid and offer among quotes and orders (''BBO'') that exist in the System at that time, if any of the conditions are met (1) a Valid Width NBBO is present; (2) a certain number of other options exchanges (as determined by the Exchange) have disseminated a firm quote on OPRA; or (3) a certain period of time (as determined by the Exchange) has elapsed. These three conditions are similar to BX's current rule text within Options 3, Section 8(b). The Exchange desires to maintain these three potential conditions which it believes are valid sources of liquidity to determine an Opening Price.

Further Opening Processes and Price Discovery Mechanism

The proposed rule promotes just and equitable principles of trade because, in arriving at the Potential Opening Price, the rule considers the maximum number of contracts that can be executed, which results in a price that is logical and reasonable in light of away markets and other interest present in the System. As noted herein, the Exchange's Opening Price is bounded by the OQR without trading through the limit price(s) of interest within OQR, which is unable to fully execute at the Opening Price, in order to provide Participants with assurance that their orders will not be traded through. Although the Exchange applies other boundaries such as the BBO, the OQR provides a range of prices that may be able to satisfy additional contracts while still ensuring a reasonable Opening Price. The Exchange seeks to execute as much volume as is possible at the Opening Price. When choosing between multiple Opening Prices when some contracts would remain unexecuted, using the lowest bid or highest offer of the largest sized side of the market promotes just and equitable principles of trade because it uses size as a tie breaker.

The System will calculate an OQR for a particular option series that will be utilized in the price discovery mechanism if the Exchange has not opened, pursuant to the provisions in Options 3, Section 8(d)–(i). OQR would broaden the range of prices at which the Exchange may open to allow additional interest to be eligible for consideration in the Opening Process. OQR is intended to limit the Opening Price to a reasonable, middle ground price, and thus reduce the potential for erroneous trades during the Opening Process. Although the Exchange applies other boundaries such as the BBO, the OQR provides a range of prices that may be able to satisfy additional contracts while still ensuring a reasonable Opening Price. More specifically, the Exchange's Opening Price is bounded by the OQR without trading through the limit price(s) of interest within OQR, which is unable to fully execute at the Opening Price in order to provide participants with assurance that their orders will not be traded through. The Exchange seeks to execute as much volume as is possible at the Opening Price.

The Exchange's method for determining the Potential Opening Price and Opening Price is consistent with the Act because the proposed process seeks to discover a reasonable price and considers both interest present in BX's System as well as away market interest. The Exchange's method seeks to validate the Opening Price and avoid opening at aberrant prices. The rule provides for opening with a trade, which is consistent with the Act, because it enables an immediate opening to occur within a certain boundary without need for the price discovery process. The boundary provides protections while still ensuring a reasonable Opening Price.

The proposed rule considers more than one Potential Opening Price, which is consistent with the Act, because it forces the Potential Opening Price to fall within the OQR boundary, thereby providing price protection. Specifically, the mid-point calculation balances the price among interest participating in the Opening, when there is more than one price at which the maximum number of contracts could execute. Limiting the mid-point calculation to the OQR, when a price would otherwise fall outside of the OQR, ensures the final mid-point price will be within the protective OQR boundary. If there is more than one Potential Opening Price possible, where no contracts would be left unexecuted and any price used for the mid-point calculation is an away market price,

[81] Phlx Options 3, Section 8(d)(v) provides, ''The Opening Process will stop and an option series will not open if the ABBO becomes crossed or when a Valid Width Quote(s) pursuant to paragraph (d)(i) is no longer present. Once each of these conditions no longer exist, the Opening Process in the affected option series will start again pursuant to paragraphs (f)–(k) below.''

when contracts will be routed, the System will use the away market price as the Potential Opening Price.

The Exchange's proposal to route all interest, pursuant to Options 3, Section 10(a)(1), is consistent with the Act. The Exchange believes that it routing all routable interest will provide all market participants the opportunity to have their interest executed on away markets.

The price discovery mechanism reflects what is generally known as an imbalance process and is intended to attract liquidity to improve the price at which an option series will open as well as to maximize the number of contracts that can be executed on the opening. This process will only occur if the Exchange has not been able to otherwise open an option series utilizing the other processes available in proposed BX Options 3, Section 8. The Exchange believes the process presented in the price discovery mechanism is consistent with just and equitable principles of trade because the process applies a proposed, wider boundary to identify the Opening Price and seeks additional liquidity. The price discovery mechanism also promotes just and equitable principles of trade by taking into account whether all interest can be fully executed, which helps investors by including as much interest as possible in the Opening Process. The Exchange believes that conducting the price discovery process in these situations protects opening orders from receiving a random price that does not reflect the totality of what is happening in the markets on the opening and also further protects opening interest from receiving a potentially erroneous execution price on the opening. Opening immediately has the benefit of speed and certainty, but that benefit must be weighed against the quality of the execution price and whether orders were left unexecuted. The Exchange believes that the proposed rule strikes an appropriate balance. Today, BX would start imbalance messages even without a Valid Width NBBO. With the proposed amendments, BX would not start the imbalance process unless a Valid Width NBBO was present.

It is consistent with the Act to not consider away market liquidity, *i.e.* away market volume, until the price discovery mechanism occurs because this proposed process provides for a swift, yet conservative opening. The Exchange is bounded by the Pre-Market BBO when determining an Opening Price. The away market prices would be considered, albeit not immediately. It is consistent with the Act to consider interest on the Exchange prior to routing to an away market, because the Exchange is utilizing the interest currently present on its market to determine a quality Opening Price.[82] The Exchange will attempt to match interest in the System, which is within the OQR, and not leave interest unsatisfied that was otherwise at that price. The Exchange will not trade-through the away market interest in satisfying this interest at the Exchange. The proposal attempts to maximize the number of contracts that can trade, and is intended to find the most reasonable and suitable price, relying on the maximization to reflect the best price.

With respect to the manner in which the Exchange disseminates an Imbalance Message, as proposed within BX Options 3, Section 8(k)(A), the Imbalance Message is intended to attract additional liquidity, much like an auction, using an auction message and timer. The Imbalance Timer is consistent with the Act because it would provide a reasonable time for participants to respond to the Imbalance Message before any opening interest is routed to away markets and, thereby, maximize trading on the Exchange. The Imbalance Timer would be for the same number of seconds for all options traded on the Exchange. This process will repeat, up to four iterations, until the options series opens. The Exchange believes that this process is consistent with the Act because the Exchange is seeking to identify a price on the Exchange without routing away, yet which price may not trade through another market and the quality of which is addressed by applying the OQR boundary.

Proposed Options 3, Section 8(k)(3)(C)(i) provides if the total number of better priced away contracts, plus the number of contracts available at the Exchange Opening Price, plus the contracts available at away markets at the Exchange Opening Price, would satisfy the number of marketable contracts the Exchange has on either the buy or sell side, the System will contemporaneously route a number of contracts that will satisfy interest at away markets at prices better than the Exchange Opening Price (pricing any contracts routed to away markets at the better of the Exchange Opening Price or the order's limit price), trade available contracts on the Exchange at the Exchange Opening Price, and route a number of contracts that will satisfy interest at other markets at prices equal to the Exchange Opening Price. This provision is consistent with the Act because it considers routing to away markets potentially both at a better price than the Exchange Opening Price, as well as at the Exchange Opening Price, to access as much liquidity as possible to maximize the number of contracts able to be traded as part of the Opening Process. The Exchange routes at the better of the Exchange's Opening Price or the order's limit price to first ensure the order's limit price is not violated. Routing away at the Exchange's Opening Price is intended to achieve the best possible price available at the time the order is received by the away market.

Proposed BX Options 3, Section 8(k)(3)(E), entitled ''Forced Opening,'' provides for the situation where, as a last resort, the Exchange may open an options series when the processes described above have not resulted in an opening of the options series. Under a Forced Opening, the System will open the series executing as many contracts as possible by routing to away markets at prices better than the Exchange Opening Price for their disseminated size, trading available contracts on the Exchange at the Exchange Opening Price, bounded by OQR (without trading through the limit price(s) of interest within OQR, which is unable to be fully executed at the Opening Price). The System will also route interest to away markets at prices equal to the Exchange Opening Price at their disseminated size. In this situation, the System will price any contracts routed to away markets at the better of the Exchange Opening Price or the order's limit price. Any unexecuted interest from the imbalance not traded or routed will be cancelled back to the entering participant, if they remain unexecuted and priced through the Opening Price, otherwise orders will remain in the Order Book. The Exchange believes that this process is consistent with the Act because after attempting to open by soliciting interest on BX and considering other away market interest and considering interest responding to Imbalance Messages, the Exchange could not otherwise locate a fair and reasonable price with which to open options series.

The Exchange's proposal to memorialize the manner in which

[82] Opening with a quote, pursuant to proposed Options 3, Section 8(f), would not require consideration of away market quotes because BX would have opened with a local quote that was not locked or crossed with the away market, provided there are no opening quotes or orders that lock or cross each other, and no routable orders locking or crossing the ABBO. With respect to Opening with a Trade, pursuant to Options 3, Section 8(i), the Exchange would not consider away market interest if it could open immediately with a trade, provided that the Exchange would never trade-through an away market. If BX is locked and crossed with an away market, then the Exchange would require additional price discovery, pursuant to paragraphs (j) and (k).

proposed rule will cancel and prioritize interest provides certainty to market participants as to the priority scheme during the Opening Process.[83] The Exchange's proposal to execute Market Orders first and then Limit Orders is consistent with the Act because these orders have no specified price and Limit Orders will be executed, thereafter, in accordance with the prices specified due to the nature of these order types. This is consistent with the manner in which these orders execute after the opening today.

Proposed BX Options 3, Section 8(k)(7), which provides upon opening of the option series, regardless of an execution, the System dissemination of the price and size of the Exchange's BBO, is consistent with the Act because it clarifies the manner in which the Exchange establishes the BBO for purposes of reference upon opening.

Proposed BX Options 3, Section 8(k)(8) accounts for remaining contracts, which did not price through the Opening Price. These contracts would post on the Order Book at the better of the away market price or the order's limit price. Specifically, any remaining contracts, which are not priced through the Exchange Opening Price after routing a number of contracts to satisfy better priced away contracts, will be posted to the Order Book at the better of the away market price or the order's limit price. This includes DNR Orders that are not crossed with the Opening Price. Only in the event that ABBO interest, which the DNR Order would otherwise be crossing, has been satisfied by routable interest during the Opening Process would DNR Orders be included within the remaining contracts described in proposed BX Options 3, Section 8(k)(8).[84] This rule text accounts for orders which have routed away and returned unsatisfied, and also accounts for interest that remains unfilled during the Opening Process, provided that interest was not priced through the Opening Price. The Exchange believes that the proposed text in Options 3, Section 8(k)(8) is consistent with the Act in that the Exchange is accounting for the handling of all interest in the Opening Process with this rule text.

Opening Process Cancel Timer

The Exchange's proposal to retain its renamed ''Opening Process Cancel Timer'' within proposed BX Options 3, Section 8(l), with rule text modifications to conform the rule text similar to Phlx Options 3, Section 8(l), is consistent with the Act. The cancel timer will continue to provide Participants with the ability to elect to have orders returned, except for non-GTC orders. This functionality provides Participants with choice, when symbols do not open, about where, and when, they can send orders for the opening that would afford them the best experience.

Options 2, Section 4

The Exchange's proposal to remove the rule text from Options 2, Section 4(g) and permit BX to establish differences, other than noted within proposed BX Options 3, Section 8(a)(9), for one or more series or classes of options, similar to other Nasdaq affiliated exchanges,[85] is consistent with the Act. Today, BX Regulation takes into account: (A) Whether there is pending news, a news announcement or other special events; (B) whether the underlying security is trading outside of the bid or offer in such security then being disseminated; (C) whether Options Participants receive no response to orders placed to buy or sell the underlying security; and (D) whether a vendor quote feed is clearly stale or unreliable, in making such determinations regarding quoting discretion. The Exchange believes that permitting BX to have the same discretion as Phlx, ISE, GEMX and MRX will assist the Exchange in making similar determinations to affected options series. The Exchange's proposal to amend Options 2, Section 4(g) and instead permit the Exchange to grant discretion based on proposed BX Options 3, Section 8(a)(9) is consistent with the Act because such discretion would permit the Exchange the ability to attract liquidity from Market Makers, while also maintaining a fair and orderly market. Market Makers accept a certain amount of risk when quoting on the Exchange. The Exchange imposes quoting and other obligations on Market Makers.[86] These risks, which Market Makers accept each trading day are calculated risks. The Exchange considers certain factors, which are likely unforeseen, in determining whether to grant relief, either in individual options classes or for all option classes based upon specific criteria. The Exchange believes that it is necessary to grant quote relief in certain circumstances where a Market Maker may not have enough information to maintain fair and orderly markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Definitions

The Exchange's proposal to amend and alphabetize the current definitions within Options 3, Section 8(a) does not impose a burden on competition. The definitions will assist market participants in understanding the meaning of terms used throughout the proposed Rule.

Amending the definition of ''market for the underlying security'' within Options 3, Section 8(a)(ii) does not impose a burden on competition. The Exchange's proposal offers alternative paths to open BX in the event that the primary market or even a designated alternate primary market experiences an issue. The Exchange's proposal is intended to create additional certainty in the event that an issue with the primary market arises. With this proposal, the Exchange would have other equity markets to look to with respect to underlying prices on which to open BX. This proposal also does not impact the ability of other options markets to open.

Eligible Interest

Defining what qualifies as eligible interest does not impose a burden on competition because Participants will be provided with certainty, when submitting interest, as to which type of interest will be considered in the Opening Process. Unlike the regular session, where orders route if they cannot execute on BX, the Opening Process is a price discovery process which considers interest, both on BX and away markets, to determine the optimal bid and offer with which to open the market. The Opening Process seeks the price point at which the most number of contracts may be executed while protecting away market interest.

The Exchange's proposal to define an ''Opening Sweep'' within BX Options 3, Section 7(a)(9), similar to Phlx Options 3, Section 7(b)(i), does not impose a burden on competition. Removing the current order type described as ''On the Open Order'' and instead adopting an ''Opening Sweep'' order type, similar to Phx at Options 3, Section 7(b)(6), will permit Market Makers to continue to submit orders during the Opening Process for execution against eligible

[83] *See* proposed BX Options 3, Section 8(j) and (k)(6)(B).

[84] DNR Orders that are not crossed with the Opening Price rest on the Order Book at the better of the ABBO price or the DNR Order's limit order price.

[85] ISE, GEMX and MRX Rules at Options 3, Section 8(a)(8), and Phlx Rules at Options 3, Section 8(a)(ix), provide the same discretionary language.

[86] *See* BX Options 2, Sections 4 and 5.

interest in the System. Other market participants will continue to also submit orders that enter with a TIF of ''OPG'' for the Opening Process.

Likewise, replacing the current ''TIF'' of ''On the Open Order'' or ''OPG'' to an ''Opening Only'' or ''OPG'' TIF, which can only be executed in the Opening Process, pursuant to Options 3, Section 8, and is similar to Phlx Options 3, Section 7(b)(6), does not burden competition. This TIF is similar to Phlx, in that, any portion of the order that is not executed during the Opening Process is cancelled. This order type is not subject to any protections listed in Options 3, Section 15.[87] Participants will be able to continue to submit orders to be entered into the Opening Process. The two orders types will conform to Phlx's order types, which are relevant to the Opening Process, with those of BX. These order types would continue to not be valid outside of an Opening Process; they may not be submitted in the regular trading session.

With respect to trade allocation, the proposal notes at proposed BX Options 3, Section 8(b)(2) that the System will allocate pursuant to BX Options 3, Section 10. The Exchange believes that this allocation does not impose a burden on competition because it mirrors the current allocation process on BX in other trading sessions.

Permitting the Opening Process for an option series to be conducted on or after 9:30 a.m., when the System has received an opening trade or quote on the market for the underlying security in the case of equity options or in the case of index options [88] does not impose a burden on competition because this requirement will tie the option Opening Process to receipt of liquidity. The Exchange's proposed rule considers the liquidity present on its market before initiating other processes to obtain additional pricing information. Today, BX, unlike Phlx, does not require its Lead Market Makers to submit Valid Width Quotes. BX is not proposing to adopt the same quoting requirements during the Opening Process that exist on Phlx.

Similar to Phlx Options 3, Section 8(d)(v), proposed BX Options 3, Section 8(d)(3) provides that the Opening Process will stop and an option series will not open if the ABBO becomes crossed. This proposal does not impose a burden on competition. Once this condition no longer exists, the Opening Process in the affected option series will start again pursuant to paragraphs (f)–(k) below. Unlike Phlx Options 3, Section 8(d)(v),[89] BX will not consider if a Valid Width Quote(s) is no longer present. Unlike Phlx, BX does not require its Lead Market Makers to quote in the Opening Process. This requirement is not necessary for BX as BX's market would open with a BBO, pursuant to Options 3, Section 8(f), unless the ABBO becomes crossed.

The Exchange's proposal to add rule text within proposed Options 3, Section 8(d)(4) to make clear that the Exchange would not open with a trade, pursuant to paragraph (i)(2), if a Valid Width NBBO does not impose an undue burden on competition. Today, BX would not open with a trade unless there is a Valid Width NBBO present. This would remain the case with this proposal. The addition of this rule text provides market participants with an expectation of the circumstances under which the Exchange would open an option series.

Reopening After a Trading Halt

Proposed BX Options 3, Section 8(e) provides if there is a trading halt or pause in the underlying security, the Opening Process will start again irrespective of the specific times listed in paragraph (d). The Exchange's proposal to restart in the event of a trading halt does not impose a burden on competition because the proposed rule ensures that there is stability in the marketplace in order to assist the Exchange in determining the Opening Price.

Opening With a BBO

The Exchange's proposal to validate the Opening Price against away markets or by attracting additional interest to address the specific condition does not impose a burden on competition. It should avoid opening executions in very wide or unusual markets where an opening execution price cannot be validated.

Further Opening Processes and Price Discovery Mechanism

The proposed rule continues to consider the maximum number of contracts that can be executed, which results in a price that is logical and reasonable in light of away markets and other interest present in the System. The Exchange's method seeks to validate the Opening Price and avoid opening at aberrant prices does not impose a burden on competition. The Opening Price would be applied to all eligible interest.

Options 2, Section 4

The Exchange's proposal to remove the rule text from Options 2, Section 4(g) and permit BX to establish differences as noted within proposed Options 3, Section 8(a)(9), for one or more series or classes of options, similar to other Nasdaq Affiliated Exchanges,[90] does not create a burden on competition.

Finally, the proposed amendments do not create a burden on inter-market competition because other options markets have the same intra-day requirements.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange 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:

[87] Phlx Options 3, Section 7(c)(3) provides that an OPG Order is not subject to any protections listed in Options 3, Section 15, except for Automated Quotation Adjustments. Today, OPG Orders on Phlx are not subject to any protections, including Automated Quotation Adjustments protections. Phlx intends to file a rule change to remove the rule text which provides, ''except for Automated Quotation Adjustments,'' as OPG Orders are subject to that risk protection. BX will not include the exception in the proposed rule text. OPG Orders are handled in the same manner by the Phlx System today and the BX System, as proposed.

[88] *See* proposed BX Options 3, Section 8(d)(1).

[89] Phlx Options 3, Section 8(d)(v) provides, ''The Opening Process will stop and an option series will not open if the ABBO becomes crossed or when a Valid Width Quote(s) pursuant to paragraph (d)(i) is no longer present. Once each of these conditions no longer exist, the Opening Process in the affected option series will start again pursuant to paragraphs (f)–(k) below.''

[90] ISE, GEMX and MRX Rules at Options 3, Section 8(a)(8) provides the same discretionary language as exists on Phlx today.

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2020–016 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2020–016. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2020–016 and should be submitted on or before August 17, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[91]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–16165 Filed 7–24–20; 8:45 am]

BILLING CODE 8011–01–P

[91] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89361; File No. SR–DTC–2020–010]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Revise the Clearing Agency Policy on Capital Requirements

July 21, 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 July 15, 2020, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(3) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the Clearing Agency Policy on Capital Requirements (''Capital Policy'' or ''Policy'') of DTC and its affiliates, National Securities Clearing Corporation (''NSCC'') and Fixed Income Clearing Corporation (''FICC,'' and together with DTC and NSCC, the ''Clearing Agencies''). In particular, the proposed revisions to the Capital Policy would (1) update the frequency of the calculation of the Total Capital Requirement (as defined below and in the Policy) to align with the Clearing Agencies' quarterly financial statements; (2) replace the description of the calculation of the Recovery/Wind-down Capital Requirement (as defined below and in the Policy) with a reference to the Clearing Agencies' Recovery & Wind-down Plans[5] to eliminate redundancy between these documents; (3) revise the description of the additional liquid net assets (''LNA'') funded by equity, referred to as the ''Buffer'' to provide the Clearing Agencies with flexibility in calculating this discretionary amount; and (4) make other updates and revisions to the Capital Policy in order to simplify the language and improve the clarity of the Policy, as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Clearing Agencies are proposing to revise the Capital Policy, which was adopted by the Clearing Agencies in July 2017[6] and is maintained by the Clearing Agencies in compliance with Rule 17Ad–22(e)(15) under the Act,[7] in order to (1) update the frequency of the calculation of the Total Capital Requirement to align with the Clearing Agencies' quarterly financial statements; (2) replace the description of the calculation of the Recovery/Wind-down Capital Requirement with a reference to the Clearing Agencies' Recovery & Wind-down Plans to eliminate redundancy between these documents; (3) revise the description of the additional LNA funded by equity, referred to as the ''Buffer'' to provide the Clearing Agencies with flexibility in calculating this discretionary amount; and (4) make other updates and revisions to the Capital Policy in order to simplify the language and improve the clarity of the Policy, as described in greater detail below.

Overview of the Capital Policy

The Capital Policy sets forth the manner in which each Clearing Agency

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(3).

[5] *See* Securities Exchange Act Release Nos. 83972 (August 28, 2018), 83 FR 44964 (September 4, 2018) (SR–DTC–2017–021); 83953 (August 27, 2018), 83 FR 44381 (August 30, 2018) (SR–DTC–2017–803); 83973 (August 28, 2018), 83 FR 44942 (September 4, 2018) (SR–FICC–2017–021); 83954 (August 27, 2018), 83 FR 44361 (August 30, 2018) (SR–FICC–2017–805); 83974 (August 28, 2018), 83 FR 44988 (September 4, 2018) (SR–NSCC–2017–017); 83955 (August 27, 2018), 83 FR 44340 (August 30, 2018) (SR–NSCC–2017–805).

[6] *See* Securities Exchange Act Release No. 81105 (July 7, 2017), 82 FR 32399 (July 13, 2017) (SR–DTC–2017–003, SR–FICC–2017–007, SR–NSCC–2017–004).

[7] 17 CFR 240.17Ad–22(e)(15).

identifies, monitors, and manages its general business risk with respect to the requirement to hold sufficient LNA funded by equity to cover potential general business losses so the Clearing Agency can continue operations and services as a going concern if such losses materialize.[8] The amount of LNA funded by equity to be held by each of the Clearing Agencies for this purpose is defined in the Policy as the General Business Risk Capital Requirement. The Policy provides that the General Business Risk Requirement is calculated for each Clearing Agency as the greatest of three separate calculations—(1) an amount based on that Clearing Agency's general business risk profile (''Risk-Based Capital Requirement''), (2) an amount based on the time estimated to execute a recovery or orderly wind-down of the critical operations of that Clearing Agency (''Recovery/Wind-down Capital Requirement''), and (3) an amount based on an analysis of that Clearing Agency's estimated operating expenses for a six month period (''Operating Expense Capital Requirement''). The General Business Risk Capital Requirement for each Clearing Agency is determined as the greatest of these calculations.

The Capital Policy also addresses how each Clearing Agency maintains an amount of LNA funded by equity as a part of its management of credit risk [9] pursuant to its respective rules,[10] referred to as the ''Corporate Contribution.'' These resources are maintained to address losses due to a participant default and are held in addition to the Clearing Agencies' General Business Risk Capital Requirement. The Capital Policy describes how each Clearing Agency's General Business Risk Capital Requirement and Corporate Contribution fit within the Clearing Agencies' Capital Framework, where the ''Total Capital Requirement'' of each Clearing Agency is calculated as the sum of its General Business Risk Capital Requirement and Corporate Contribution. Finally, the Policy provides a plan for the replenishment of capital through the Clearing Agency Capital Replenishment Plan.

Proposed Revisions to the Capital Policy

The Capital Policy is reviewed and approved by the Boards annually. In connection with the most recent annual review of the Policy, the Clearing Agencies are proposing revisions and updates, described in greater detail below. These proposed changes are designed to update the Capital Policy and enhance the clarity of the Policy to ensure that it continues to operate as intended.

1. Update Frequency of Calculation of Total Capital Requirement

The Clearing Agencies are proposing to update the Capital Policy to change the frequency of the calculation of the Total Capital Requirement to occur quarterly, and clarify that the calculation of the Total Capital Requirement would use the most recently completed calculations of the General Business Risk Capital Requirement and the Corporate Contribution. In connection with this proposed change, the Capital Policy would also be amended to remove references to the timing of the other calculations.

As described above, the Total Capital Requirement is the sum of the General Business Risk Capital Requirement and the Corporate Contribution; and the General Business Risk Capital Requirement is the greatest of the Risk-Based Capital Requirement, Recovery/Wind-down Capital Requirement and the Operating Expense Capital Requirement. Currently the Capital Policy states that the Total Capital Requirement is calculated monthly. The Capital Policy also describes the frequency of each of the other calculations that are used in calculating the Total Capital Requirement, which occur at different intervals throughout the year.

The Clearing Agencies are proposing to update the Capital Policy to state that the Total Capital Requirement will be calculated quarterly, using the most recently calculated components. This proposed change would align the timing of this calculation with the timing of each of the Clearing Agencies' quarterly financial statements, where the results of this calculation is reported. While the calculation would occur less frequently than it is currently conducted, the Total Capital Requirement amount does not change materially from month to month.[11] Therefore, the Clearing Agencies believe the calculation would still be completed on an appropriate frequency.

The proposed change would also simplify the Capital Policy by removing the reference to the frequency of each of the other calculations. Each of the other calculations that determine the Total Capital Requirement are completed at different frequencies throughout the year, as currently described in the Capital Policy, and all occur at least annually. The proposed change would state that the most recent results of these calculations would be used in the quarterly calculation of the Total Capital Requirement. These calculations have different purposes and provide the Clearing Agencies with different measures. Therefore, these calculations are completed at different frequencies during the year, generally timed to occur when updated information is available. By removing the frequency of these calculations from the Capital Policy, and only specifying the frequency of the Total Capital Requirement calculation, which would use the most recent results of these underlying calculations, the proposed change would simplify the Policy and would provide the Clearing Agencies with flexibility to adjust the timing of these calculations as necessary.

In order to reflect this change, the Clearing Agencies are proposing to update Section 4 of the Capital Policy to state that the Total Capital Requirement would be calculated quarterly, using the most recent calculations of the General Business Risk Capital Requirement and Corporate Contribution. The proposed changes would also remove statements in Sections 5, 6, 6.1.2 and 6.3 regarding the timing of the underlying calculations.

2. Update Description of Recovery/Wind-Down Capital Requirement To Refer to the Recovery & Wind-Down Plans of the Clearing Agencies

The Clearing Agencies are proposing to amend the Capital Policy with respect to the Recovery/Wind-down Capital Requirement to update references to the Recovery & Wind-down Plans of the Clearing Agencies. In connection with this change, the Capital Policy would also be updated to clarify the role of management in advising the Boards in connection with their annual determination of the Recovery/Wind-down Capital Requirement.

[8] *Supra* note 6.

[9] LNA funded by equity held as the Clearing Agencies' Corporate Contribution is held in addition to resources held by the Clearing Agencies for credit risk in compliance with Rule 17Ad–22(e)(4) under the Act, and in addition to resources held by the Clearing Agencies for liquidity risk in compliance with Rule 17Ad–22(e)(7). 17 CFR 240.17Ad–22(e)(4), (7).

[10] *See* Rule 4 of the Rules, By-laws and Organizational Certificate of DTC (''DTC Rules''), Rule 4 of the Rulebook of the Government Securities Division of FICC (''GSD Rules''), Rule 4 of the Clearing Rules of the Mortgage-Backed Securities Division of FICC (''MBSD Rules''), and Rule 4 of the Rules & Procedures of NSCC (''NSCC Rules,'' and together with the DTC Rules, GSD Rules and MBSD Rules, the ''Clearing Agencies' Rules'' or ''Rules''), *available at http://dtcc.com/legal/rules-and-procedures.*

[11] The Total Capital Requirement amount has been reported in footnote 9 to the Clearing Agencies' financial statements since the third quarter of 2018, *available at https://www.dtcc.com/legal/financial-statements.*

First, the proposed changes would replace descriptions of the calculation of the Recovery/Wind-down Capital Requirement with references to the Clearing Agencies' Recovery & Wind-down Plans, which have been adopted by the Clearing Agencies and include detailed descriptions of the calculation of this amount.[12] The Recovery/Wind-down Capital Requirement is an amount based on the time estimated to execute a recovery or orderly wind-down of the critical operations of that Clearing Agency and is used by the Clearing Agencies to determine their General Business Risk Capital Requirement, as described above. Each of the Clearing Agencies have adopted a Recovery & Wind-down Plan, which provides plans for the recovery and orderly wind-down of each of the Clearing Agencies necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.[13] Section 8.7 of each of the Recovery & Wind-down Plans includes an analysis of the calculation of the Recovery/Wind-down Capital Requirement.

The Clearing Agencies believe their respective Recovery & Wind-down Plans are the appropriate documents for the description of the calculation of the Recovery/Wind-down Capital Requirement. The proposed change would remove redundancy between these documents and minimize the risk of inconsistency in this description.

In order to implement this change, the Clearing Agencies are proposing to (1) revise the definition of Recovery/Wind-down Capital Requirement in Section 2 of the Capital Policy to refer to the description of this amount in the Recovery & Wind-down Plan of each Clearing Agency; and (2) revise Section 6.2 of the Capital Policy to remove the description of the calculation of the Recovery/Wind-down Capital Requirement and replace it with a reference to this description in the Recovery & Wind-down Plan of each of the Clearing Agencies.

Second, the proposed changes would clarify the role of management with respect to the Boards' annual determination of the Recovery/Wind-down Capital Requirement. Pursuant to the Clearing Agencies' Recovery & Wind-down Plans, and in compliance with the requirements of Rule 17Ad–22(e)(15)(ii) under the Act,[14] the Boards are responsible for determining the Recovery/Wind-down Capital Requirement for each Clearing Agency on an annual basis.

The Treasury group of The Depository Trust & Clearing Corporation (''DTCC Treasury group'') and members of management in other relevant groups may provide the Boards with analyses and relevant data to facilitate this determination. Therefore, the Clearing Agencies are proposing to amend Section 6.2 of the Capital Policy to state that the DTCC Treasury group and members of management in other relevant groups may provide such information to the Boards.

3. Revise Description of Buffer Amount

The Clearing Agencies are proposing to amend the Capital Policy to revise the description of the additional, discretionary amount of LNA funded by equity held by the Clearing Agencies in addition to the Total Capital Requirement, which is referred to as a ''Buffer.'' Currently, the Capital Policy states that the amount of LNA funded by equity held as Buffer would be periodically assessed by the DTCC Treasury group and would generally equal approximately four to six (4–6) months of operating expenses for the respective Clearing Agency. The Clearing Agencies are proposing to make two changes to the description of the Buffer in the Capital Policy, described below.

First, the Clearing Agencies are proposing to remove the specificity regarding how the Buffer amount held by the Clearing Agencies is measured. This proposed change would provide the Clearing Agencies with flexibility to manage capital when determining the appropriate amount of LNA funded by equity that they would each hold in addition to the Total Capital Requirement. The Clearing Agencies would implement this proposed change by amending the description of Buffer in Section 4 of the Capital Policy to remove the reference to four to six (4–6) months of operating expenses, and state simply that this amount is determined based on various factors, including historical fluctuations of LNA and estimates of potential losses from general business risk.

Second, the Clearing Agencies are proposing to amend Section 4 of the Capital Policy to clarify that the Buffer will be calculated at least annually. Currently the Capital Policy states that the Buffer will be calculated periodically. This proposed change would provide more specificity regarding the frequency of this calculation.

4. Technical Revisions and Clarifications

In addition to the proposed changes described above, the Clearing Agencies are also proposing the following technical revisions to the Capital Policy.

First, the proposed changes would update the description of the Corporate Contribution in Figure 1 of Section 4 of the Capital Policy. The proposed change would replace the current description of this amount with a reference to the Clearing Agencies' Rules, where this amount is defined. The proposed change would align the description in Figure 1 of Section 4 with the description of the Corporate Contribution in Section 5 of the Capital Policy, which also describes the Corporate Contribution by referring to the Clearing Agencies' Rules.

Second, the proposed changes would revise Section 6.3 of the Capital Policy to use the defined term for Operating Expense Capital Requirement, which is defined in the Glossary of Key Terms in Section 2 of the Capital Policy.

Third, the proposed changes would also revise Section 6.3 to clarify that the data used to estimate prospective Clearing Agency expenses in calculating the Operating Expense Capital Requirement comes from a budget developed by the Financial Planning & Analysis department for the respective Clearing Agencies.

Finally, the proposed changes would update Section 7.2 of the Capital Policy, which describes where the Clearing Agencies report their assessment of LNA funded by equity against the Total Capital Requirement. The proposed change would state that, in addition to internal reporting, this assessment is also reported publicly in the Clearing Agencies' financial statements.

Each of these proposed changes would make technical drafting corrections or clarifications to the existing descriptions in the Capital Policy. While these proposed changes would not substantively alter the descriptions in the Capital Policy, they would improve the clarity of the Policy.

2. Statutory Basis

The Clearing Agencies believe that the proposed rule changes to the Capital Policy are consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency. In particular, the Clearing Agencies believe that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act [15]

[12] *Supra* note 5.

[13] *Id.*

[14] 17 CFR 240.17Ad–22(e)(15)(ii).

[15] 15 U.S.C. 78q–1(b)(3)(F).

and Rule 17Ad–22(e)(15) under the Act,[16] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of the Clearing Agencies be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the Clearing Agencies or for which they are responsible.[17] The Capital Policy is designed to ensure that each of the Clearing Agencies hold sufficient LNA funded by equity to cover potential general business losses so that they can continue the prompt and accurate clearance and settlement of securities transactions, and can continue to assure the safeguarding of securities and funds which are in their custody or control or for which they are responsible if those losses materialize.

The proposed changes described above would not materially alter how the Capital Policy accomplishes this goal. The proposed changes would update the frequency of the calculation of the amount of LNA funded by equity held by the Clearing Agencies. Changing this frequency would not alter the Clearing Agencies' ability to hold an amount needed to cover potential general business losses, as the result of these calculations do not currently change materially on a month to month basis. The proposed change to refer to the Clearing Agencies' Recovery & Wind-down Plans for the description of the Recovery/Wind-down Capital Requirement would reduce the redundancy between the Policy and these plans, and would not alter the calculation of this amount. The proposed change to the description of the Buffer would provide the Clearing Agencies with additional flexibility in calculating this amount, which is held in addition to the amounts needed to meet compliance with their regulatory requirements. Finally, the proposed technical revisions would simplify and clarify the descriptions in the Policy, and would not alter the way the Policy operates.

The proposed revisions would not materially change how the Policy ensures that each of the Clearing Agencies hold sufficient LNA funded by equity to cover potential general business losses but would allow the Clearing Agencies to maintain this document to operate in the way it was intended. Therefore, such proposed revisions would be consistent with the requirements of Section 17A(b)(3)(F) of the Act.[18]

Rule 17Ad–22(e)(15) under the Act requires the Clearing Agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor, and manage their respective general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that the Clearing Agencies can continue operations and services as a going concern if those losses materialize.[19] As originally implemented, the Capital Policy was designed to meet the requirements of Rule 17Ad–22(e)(15). For the reasons described above, the proposed revisions would not materially alter how the Clearing Agencies comply with their requirements under this rule. Therefore, the proposed changes would allow the Clearing Agencies to maintain the Capital Policy in a way that continues to be consistent with the requirements of Rule 17Ad–22(e)(15) under the Act.[20]

(B) Clearing Agency's Statement on Burden on Competition

Each of the Clearing Agencies believes that none of the proposed revisions to the Capital Policy would have any impact, or impose any burden, on competition. The Policy is maintained by the Clearing Agencies in order to satisfy their regulatory requirements and generally reflect internal tools and procedures. Tools and procedures that have a direct impact on the rights, responsibilities or obligations of members or participants of the Clearing Agencies are reflected in the Clearing Agencies' Rules. Accordingly, the Capital Policy enhances the Clearing Agencies' regulatory compliance and internal management and does not have any impact, or impose any burden, on competition.

The proposed revisions would not effect any changes to the fundamental purpose or materially impact the operation of the Capital Policy. As such, the proposed changes also would not have any impact, or impose any burden, on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Clearing Agencies have not solicited or received any written comments relating to this proposal. The Clearing Agencies will notify the Commission of any written comments received by the Clearing Agencies.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[21] of the Act and paragraph (f)[22] of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–DTC–2020–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2020–010. 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,

[16] 17 CFR 240.17Ad–22(e)(15).

[17] 15 U.S.C. 78q–1(b)(3)(F).

[18] *Id.*

[19] 17 CFR 240.17Ad–22(e)(15).

[20] *Id.*

[21] 15 U.S.C 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f).

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 DTC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–DTC–2020–010 and should be submitted on or before August 17, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–16158 Filed 7–24–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89367; File No. SR–NYSEAMER–2020–49]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 1.1E To Include Active Proxy Portfolio Shares, Tracking Fund Shares, Proxy Portfolio Shares, and Index Fund Shares

July 21, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on July 10, 2020, NYSE American LLC (''NYSE American'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 1.1E to include Active Proxy Portfolio Shares, Tracking Fund Shares, Proxy Portfolio Shares, and Index Fund Shares in the definition of ''UTP Exchange Traded Product.'' The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 1.1E(bbb), which sets forth the meanings of ''Exchange Traded Product'' and ''UTP Exchange Traded Product'' as those terms are used in Exchange rules.

Specifically, the Exchange proposes to amend the definition of ''UTP Exchange Traded Product'' to include Active Proxy Portfolio Shares listed pursuant to NYSE Arca, Inc. (''NYSE Arca'') Rule 8.601–E, Tracking Fund Shares listed pursuant to Cboe BZX Exchange, Inc. (''BZX'') Rule 14.11(m), and Proxy Portfolio Shares which may in the future be listed pursuant to Nasdaq Stock Market LLC (''Nasdaq'') Rule 5750[4] as additional types of Exchange Traded Products (''ETPs'') that may trade on the Exchange pursuant to unlisted trading privileges (''UTP'').

To effect this change, the Exchange proposes to add a bullet point listing ''Active Proxy Portfolio Shares listed pursuant to NYSE Arca, Inc. Rule 8.601–E, Tracking Fund Shares listed pursuant to Cboe BZX Exchange, Inc. Rule 14.11(m), and Proxy Portfolio Shares listed pursuant to Nasdaq Stock Market LLC Rule 5750'' in Rule 1.1E(bbb) to include them in the enumerated list of ETPs that may trade on the Exchange on a UTP basis. The Exchange also proposes non-substantive changes to accommodate the addition of this bullet point as the final item in the bulleted list in Rule 1.1E(bbb).

The Exchange also proposes to amend Rule 1.1E(bbb) to include Index Fund Shares listed pursuant to BZX Rule 14.11(c) or Nasdaq Rule 5705(b) as a type of ETP that may trade pursuant to UTP. To effect this change, the Exchange proposes to amend the existing bullet point listing ''Investment Company Units'' to include Index Fund Shares as the alternative name for the same product. Accordingly, the Exchange proposes to revise the bullet point to list ''Investment Company Units listed pursuant to NYSE Arca, Inc. Rule 5.2–E(j)(3) and Index Fund Shares listed pursuant to Cboe BZX Exchange, Inc. Rule 14.11(c) or Nasdaq Stock Exchange LLC Rule 5705(b).''

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, because it is designed to remove impediments to and perfect the mechanism of a free and open market, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market, promote just and equitable principles of trade, and, in general, to protect investors and the public interest because it modifies Rule 1.1E(bbb) to state the complete list of ETPs that may trade on a UTP basis on the Exchange, providing specificity, clarity, and transparency in the Exchange's rules. Moreover, the proposed rule change will facilitate the trading of additional types of ETPs on the Exchange pursuant to UTP, thereby enhancing competition among market participants for the benefit of investors and the marketplace.

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Active Proxy Portfolio Shares, Tracking Fund Shares, and Proxy Portfolio Shares are substantially similar products with different names and generally refer to shares of actively managed exchange-traded funds for which the portfolio is disclosed in accordance with standard mutual fund disclosure rules. *See* Securities Exchange Act Release No. 89185 (June 29, 2020) (order approving NYSE Arca Rule 8.601–E); Securities Exchange Act Release No. 88887 (May 15, 2020), 85 FR 30990 (May 21, 2020) (order approving BZX Rule 14.11(m)); Securities Exchange Act Release No. 89110 (June 22, 2020), 85 FR 38461 (June 26, 2020) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt Nasdaq Rule 5750 to List and Trade Proxy Portfolio Shares). On June 4, 2020, BZX commenced trading its first securities listed under BZX Rule 14.11(m) (Fidelity Blue Chip Growth ETF (FBCG), Fidelity Blue Chip Value ETF (FBCV), and Fidelity New Millennium ETF (FMIL)). Although Nasdaq has rules pertaining to Proxy Portfolio Shares, it does not yet list any such product.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) & (5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change would provide the public and investors with up-to-date information about the types of ETPs that can trade on the Exchange on a UTP basis and would promote competition by adding additional types of ETPs that may trade on the Exchange pursuant to UTP.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange believes that a waiver of the operative delay is consistent with the protection of investors and the public interest because it would allow for the immediate trading, pursuant to UTP, of Active Proxy Portfolio Shares, Tracking Fund Shares, and Proxy Portfolio Shares on the Exchange and therefore would provide investors with an additional trading venue option. In addition, the proposal would specifically name products substantially similar to Investment Company Units known as Index Fund Shares on other exchanges in the list of product that may trade on the Exchange pursuant to unlisted trading privileges. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2020–49 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2020–49. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2020–49 and should be submitted on or before August 17, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–16161 Filed 7–24–20; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89357; File No. SR–NYSE–2020–57]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 1.1 To Include Active Proxy Portfolio Shares, Tracking Fund Shares, Proxy Portfolio Shares, and Index Fund Shares

July 21, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on July 10, 2020, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 1.1 to include Active Proxy Portfolio Shares, Tracking Fund Shares, Proxy Portfolio Shares, and Index Fund Shares in the definition of ''UTP Exchange Traded Product.'' The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 1.1(l), which sets forth the meanings of ''Exchange Traded Product'' and ''UTP Exchange Traded Product'' as those terms are used in Exchange rules.

Specifically, the Exchange proposes to amend the definition of ''UTP Exchange Traded Product'' to include Active Proxy Portfolio Shares listed pursuant to NYSE Arca, Inc. (''NYSE Arca'') Rule 8.601–E, Tracking Fund Shares listed pursuant to Cboe BZX Exchange, Inc. (''BZX'') Rule 14.11(m), and Proxy Portfolio Shares which may in the future be listed pursuant to Nasdaq Stock Market LLC (''Nasdaq'') Rule 5750[4] as additional types of Exchange Traded Product (''ETPs'') that may trade on the Exchange pursuant to unlisted trading privileges (''UTP'').

To effect this change, the Exchange proposes to add a bullet point listing ''Active Proxy Portfolio Shares listed pursuant to NYSE Arca, Inc. Rule 8.601–E, Tracking Fund Shares listed pursuant to Cboe BZX Exchange, Inc. Rule 14.11(m), and Proxy Portfolio Shares listed pursuant to Nasdaq Stock Market LLC Rule 5750'' in Rule 1.1(l) to include them in the enumerated list of ETPs that may trade on the Exchange on a UTP basis. The Exchange also proposes non-substantive changes to accommodate the addition of this bullet point as the final item in the bulleted list in Rule 1.1(l).

The Exchange also proposes to amend Rule 1.1(l) to include Index Fund Shares listed pursuant to BZX Rule 14.11(c) or Nasdaq Rule 5705(b) as a type of ETP that may trade pursuant to UTP. To effect this change, the Exchange proposes to amend the existing bullet point listing ''Investment Company Units'' to include Index Fund Shares as the alternative name for the same product. Accordingly, the Exchange proposes to revise the bullet point to list ''Investment Company Units listed pursuant to NYSE Arca, Inc. Rule 5.2–E(j)(3) and Index Fund Shares listed pursuant to Cboe BZX Exchange, Inc. Rule 14.11(c) or Nasdaq Stock Exchange LLC Rule 5705(b).''

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, because it is designed to remove impediments to and perfect the mechanism of a free and open market, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market, promote just and equitable principles of trade, and, in general, to protect investors and the public interest because it modifies Rule 1.1(l) to state the complete list of ETPs that may trade on a UTP basis on the Exchange, providing specificity, clarity, and transparency in the Exchange's rules. Moreover, the proposed rule change will facilitate the trading of additional types of ETPs on the Exchange pursuant to UTP, thereby enhancing competition among market participants for the benefit of investors and the marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change would provide the public and investors with up-to-date information about the types of ETPs that can trade on the Exchange on a UTP basis and would promote competition by adding additional types of ETPs that may trade on the Exchange pursuant to UTP.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[10]

[4] Active Proxy Portfolio Shares, Tracking Fund Shares, and Proxy Portfolio Shares are substantially similar products with different names and generally refer to shares of actively managed exchange-traded funds for which the portfolio is disclosed in accordance with standard mutual fund disclosure rules. *See* Securities Exchange Act Release No. 89185 (June 29, 2020) (order approving NYSE Arca Rule 8.601–E); Securities Exchange Act Release No. 88887 (May 15, 2020), 85 FR 30990 (May 21, 2020) (order approving BZX Rule 14.11(m)); Securities Exchange Act Release No. 89110 (June 22, 2020), 85 FR 38461 (June 26, 2020) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt Nasdaq Rule 5750 to List and Trade Proxy Portfolio Shares). On June 4, 2020, BZX commenced trading its first securities listed under BZX Rule 14.11(m) (Fidelity Blue Chip Growth ETF (FBCG), Fidelity Blue Chip Value ETF (FBCV), and Fidelity New Millennium ETF (FMIL)). Although Nasdaq has rules pertaining to Proxy Portfolio Shares, it does not yet list any such product.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) & (5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange believes that a waiver of the operative delay is consistent with the protection of investors and the public interest because it would allow for the immediate trading, pursuant to UTP, of Active Proxy Portfolio Shares, Tracking Fund Shares, and Proxy Portfolio Shares on the Exchange and therefore would provide investors with an additional trading venue option. In addition, the proposal would specifically name products substantially similar to Investment Company Units known as Index Fund Shares on other exchanges in the list of product that may trade on the Exchange pursuant to unlisted trading privileges. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–57 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2020–57. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2020–57 and should be submitted on or before August 17, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–16154 Filed 7–24–20; 8:45 am]

BILLING CODE 8011–01–P

[11] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89369; File No. SR–NYSE–2020–60]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 7.37

July 21, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on July 14, 2020, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.37 to specify the Exchange's source of data feeds from MEMX LLC (''MEMX'') for purposes of order handling, order execution, order routing, and regulatory compliance. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update and amend the use of data feeds table in Rule 7.37, which sets forth on a market-by-market basis the specific securities information processor (''SIP'') and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, the Exchange proposes to amend the table in Rule 7.37(e) to specify that, with respect to MEMX, the Exchange will receive the SIP feed as its primary source of data for order handling, order

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

execution, order routing, and regulatory compliance. The Exchange will not have a secondary source for data from MEMX.

The Exchange proposes that this proposed rule change would be operative on the day that MEMX launches operations as an equities exchange, which is currently expected on September 4, 2020.[4]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5),[6] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes its proposal to amend the table in Rule 7.37(e) to include the data feed source for MEMX will ensure that Rule 7.37 correctly identifies and publicly states on a market-by-market basis all of the specific SIP and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks for each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest by providing additional specificity, clarity, and transparency in the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue, but rather would provide the public and market participants with up-to-date information about the data feeds the Exchange will use for the handling, execution, and routing of orders, as well as for regulatory compliance.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b 4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[9] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–60 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F StreetF NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2020–60. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange and on its internet website at *https://www.nyse.com.* All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NYSE–2020–60 and should be submitted on or before August 17, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–16163 Filed 7–24–20; 8:45 am]

BILLING CODE 8011–01–P

[4] *See https://memx.com/memx-timeline-update-launch-set-for-september-4th/.*

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 15 U.S.C. 78s(b)(2)(B).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89368; File No. SR–NYSE–2020–61]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete Supplementary Material .20 to Rule 76

July 21, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on July 20, 2020, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the Commission'') the proposed rule change as described in Items I 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

The Exchange proposes to delete Supplementary Material .20 to Rule 76 and lift the temporary suspension on ''crossing'' orders pursuant to Rule 76. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to delete Supplementary Material .20 to Rule 76 and lift the temporary suspension on ''crossing'' orders pursuant to Rule 76.

Background

To slow the spread of COVID–19 through social-distancing measures, on March 18, 2020, the CEO of the Exchange made a determination under Rule 7.1(c)(3) that, beginning March 23, 2020, the Trading Floor facilities located at 11 Wall Street in New York City would close and the Exchange would move, on a temporary basis, to fully electronic trading.[4] On May 14, 2020, the CEO of the Exchange made a determination under Rule 7.1(c)(3) to reopen the Trading Floor on a limited basis on May 26, 2020 to a subset of Floor brokers, subject to safety measures designed to prevent the spread of COVID–19.[5] On June 15, 2020, the CEO of the Exchange made a determination under Rule 7.1(c)(3) to begin the second phase of the Trading Floor reopening by allowing DMMs to return on June 17, 2020, subject to safety measures designed to prevent the spread of COVID–19.[6]

The Exchange has modified its rules to add Commentaries to Rules 7.35, 7.35A, 7.35B, and 7.35C; Supplementary Material .20 to Rule 76; and rule relief in Rule 36.30 [7] that are in effect until the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on July 31, 2020.[8]

Proposed Rule Change

The Exchange has determined that, during this phase of the partial reopening of the Trading Floor when both DMMs and Floor brokers have returned to the Trading Floor with reduced staff, Floor brokers can resume ''crossing'' transactions pursuant to Rule 76, including the Cross Function specified in Supplementary Material .10 to Rule 76, in a manner consistent with the safety measures designed to prevent the spread of COVID–19.

Crossing transactions, which require a verbal representation of the proposed crossing transaction, involve face-to-face interactions on the Trading Floor. Because such proposed transactions do not happen at set times during the trading day, they generally do not result in large numbers of individuals congregating on the Trading Floor. The Exchange has discussed the resumption of crossing orders with member organizations that operate DMM units and Floor broker firms that have returned to the Trading Floor. Based on these discussions, the Exchange believes that crossing transactions can be resumed in a manner consistent with both the safety measures required on the Trading Floor, including the use of cloth face masks or coverings and maintaining at least six-foot physical distancing from other individuals,[9] and the Rule 76 requirement that such proposed transactions be clearly announced to the trading crowd.

To effect this change, the Exchange proposes to lift the temporary suspension of Rule 76 by deleting Supplementary Material .20 to Rule 76.

The Exchange would be able to implement the proposed rule change immediately upon effectiveness of this proposed rule change.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Press Release, dated March 18, 2020, available here: *https://ir.theice.com/press/press-releases/all-categories/2020/03-18-2020-204202110.*

[5] *See* Securities Exchange Act Release No. 88933 (May 22, 2020), 85 FR 32059 (May 28, 2020) (SR–NYSE–2020–47) (Notice of filing and immediate effectiveness of proposed rule change).

[6] *See* Securities Exchange Act Release No. 89086 (June 17, 2020) (SR–NYSE–2020–52) (Notice of filing and immediate effectiveness of proposed rule change).

[7] *See* Securities Exchange Act Release Nos. 88413 (March 18, 2020), 85 FR 16713 (March 24, 2020) (SR–NYSE–2020–19) (amending Rule 7.35C to add Commentary .01); 88444 (March 20, 2020), 85 FR 17141 (March 26, 2020) (SR–NYSE–2020–22) (amending Rules 7.35A to add Commentary .01, 7.35B to add Commentary .01, and 7.35C to add Commentary .02); 88488 (March 26, 2020), 85 FR 18286 (April 1, 2020) (SR–NYSE–2020–23) (amending Rule 7.35A to add Commentary .02); 88546 (April 2, 2020), 85 FR 19782 (April 8, 2020) (SR–NYSE–2020–28) (amending Rule 7.35A to add Commentary .03); 88562 (April 3, 2020), 85 FR 20002 (April 9, 2020) (SR–NYSE–2020–29) (amending Rule 7.35C to add Commentary .03); 88705 (April 21, 2020), 85 FR 23413 (April 27, 2020) (SR–NYSE–2020–35) (amending Rule 7.35A to add Commentary .04); 88725 (April 22, 2020), 85 FR 23583 (April 28, 2020) (SR–NYSE–2020–37) (amending Rule 7.35 to add Commentary .01); 88950 (May 26, 2020), 85 FR 33252 (June 1, 2020) (SR–NYSE–2020–48) (amending Rule 7.35A to add Commentary .05); 89059 (June 12, 2020), 85 FR 36911 (June 18, 2020) (SR–NYSE–2020–50) (amending Rule 7.35C to add Commentary .04); and 89086 (June 17, 2020) (SR–NYSE–2020–52) (amending Rules 7.35A to add Commentary .06, 7.35B to add Commentary .03, 76 to add Supplementary Material 20, and Supplementary Material .30 to Rule 36).

[8] *See* Securities Exchange Act Release No. 89199 (June 30, 2020), 85 FR 40718 (July 7, 2020) (SR–NYSE–2020–56) (Notice of filing and immediate effectiveness of proposed rule change to extend the temporary period for Commentaries to Rules 7.35, 7.35A, 7.35B, and 7.35C, Supplementary Material .20 to Rule 76, and temporary rule relief to Rules 36.30 to end on the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on July 31, 2020).

[9] *See* NYSE IM–20–03, ''Standards of Conduct for the Safety and Welfare of Persons on the Trading Floor Relating to COVID–19,'' dated May 14, 2020, available here: *https://www.nyse.com/publicdocs/nyse/markets/nyse/rule-interpretations/2020/NYSE%20IM%20(5-14-20)%20-%20Final%20-%20Republished.pdf.*

Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

To reduce the spread of COVID–19, the CEO of the Exchange made a determination under Rule 7.1(c)(3) that beginning March 23, 2020, the Trading Floor facilities located at 11 Wall Street in New York City would close and the Exchange would move, on a temporary basis, to fully electronic trading. On May 14, 2020, the CEO of the Exchange made a determination under Rule 7.1(c)(3) that, beginning May 26, 2020, the Trading Floor would be partially reopened to allow a subset of Floor brokers to return to the Trading Floor. And on June 15, 2020, the CEO of the Exchange made a determination under Rule 7.1(c)(3) that, beginning June 17, 2020, the Trading Floor would be partially reopened to allow a subset of DMMs to return to the Trading Floor.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would permit the resumption of crossing transactions pursuant to Rule 76, and therefore restore functionality to Floor brokers. The Exchange believes that crossing transactions can be resumed on the Trading Floor in a manner consistent with both the requirements of Rule 76 and the safety measures required on the Trading Floor, including the use of cloth face masks or coverings and maintaining at least six-foot physical distancing from other individuals. The Exchange therefore proposes to lift this temporary suspension by deleting Supplementary Material .20 to Rule 76.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. This proposed rule change is not designed to address any competitive issues but rather to restore functionality to Floor brokers by lifting the temporary suspension on crossing transactions pursuant to Rule 76.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13] 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[14] and subparagraph (f)(6) of Rule 19b–4 thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6)[16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may take effect immediately. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will lift a temporary rule suspension and restore functionality to Floor brokers without any further delay. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[18]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[19] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–61 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2020–61. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6).

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[19] 15 U.S.C. 78s(b)(2)(B).

office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2020–61 and should be submitted on or before August 17, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–16162 Filed 7–24–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89366; File No. SR–NYSEArca–2020–61]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 1.1 to Include Active Proxy Portfolio Shares, Tracking Fund Shares, Proxy Portfolio Shares, and Index Fund Shares

July 21, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on July 10, 2020, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 1.1 to include Active Proxy Portfolio Shares, Tracking Fund Shares, Proxy Portfolio Shares, and Index Fund Shares in the definition of ''UTP Derivative Securities Product.'' The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 1.1(k), which sets forth the meanings of ''Derivative Securities Product'' and ''UTP Derivative Securities Product'' as those terms are used in Exchange rules.

Specifically, the Exchange proposes to amend the definition of ''UTP Derivative Securities Product'' to include Active Proxy Portfolio Shares listed pursuant to NYSE Arca Rule 8.601–E, Tracking Fund Shares listed pursuant to Cboe BZX Exchange, Inc. (''BZX'') Rule 14.11(m), and Proxy Portfolio Shares which may in the future be listed pursuant to Nasdaq Stock Market LLC (''Nasdaq'') Rule 5750[4] as additional types of Derivative Securities Products that may trade on the Exchange pursuant to unlisted trading privileges (''UTP'').

To effect this change, the Exchange proposes to add a bullet point listing ''Active Proxy Portfolio Shares listed pursuant to NYSE Arca, Inc. Rule 8.601–E, Tracking Fund Shares listed pursuant to Cboe BZX Exchange, Inc. Rule 14.11(m), and Proxy Portfolio Shares listed pursuant to Nasdaq Stock Market LLC Rule 5750'' in Rule 1.1(k) to include them in the enumerated list of Derivative Securities Products that may trade on the Exchange on a UTP basis. The Exchange also proposes non-substantive changes accommodate the addition of this bullet point as the final item in the bulleted list in Rule 1.1(k).

The Exchange also proposes to amend Rule 1.1(k) to include Index Fund Shares listed pursuant to BZX Rule 14.11(c) or Nasdaq Rule 5705(b) as a type of Derivative Securities Product that may trade pursuant to UTP. To effect this change, the Exchange proposes to amend the existing bullet point listing ''Investment Company Units'' to include Index Fund Shares as the alternative name for the same product. Accordingly, the Exchange proposes to revise the bullet point to list ''Investment Company Units listed pursuant to NYSE Arca, Inc. Rule 5.2–E(j)(3) and Index Fund Shares listed pursuant to Cboe BZX Exchange, Inc. Rule 14.11(c) or Nasdaq Stock Exchange LLC Rule 5705(b).''

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, because it is designed to remove impediments to and perfect the mechanism of a free and open market, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market, promote just and equitable principles of trade, and, in general, to protect investors and the public interest because it modifies Rule 1.1(k) to state the complete list of Derivative Securities Products that may trade on a UTP basis on the Exchange, providing specificity, clarity, and transparency in the Exchange's rules. Moreover, the proposed rule change will facilitate the trading of additional types of Derivative Securities Products on the Exchange pursuant to UTP, thereby enhancing competition among market participants for the benefit of investors and the marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Active Proxy Portfolio Shares, Tracking Fund Shares, and Proxy Portfolio Shares are substantially similar products with different names and generally refer to shares of actively managed exchange-traded funds for which the portfolio is disclosed in accordance with standard mutual fund disclosure rules. *See* Securities Exchange Act Release No. 89185 (June 29, 2020) (order approving NYSE Arca Rule 8.601–E); Securities Exchange Act Release No. 88887 (May 15, 2020), 85 FR 30990 (May 21, 2020) (order approving BZX Rule 14.11(m)); Securities Exchange Act Release No. 89110 (June 22, 2020), 85 FR 38461 (June 26, 2020) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt Nasdaq Rule 5750 to List and Trade Proxy Portfolio Shares). On June 4, 2020, BZX commenced trading its first securities listed under BZX Rule 14.11(m) (Fidelity Blue Chip Growth ETF (FBCG), Fidelity Blue Chip Value ETF (FBCV), and Fidelity New Millennium ETF (FMIL)). Although Nasdaq has rules pertaining to Proxy Portfolio Shares, it does not yet list any such product.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) & (5).

any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change would provide the public and investors with up-to-date information about the types of Derivative Securities Products that can trade on the Exchange on a UTP basis and would promote competition by adding additional types of Derivative Securities Products that may trade on the Exchange pursuant to UTP.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange believes that a waiver of the operative delay is consistent with the protection of investors and the public interest because it would allow for the immediate trading, pursuant to UTP, of Active Proxy Portfolio Shares, Tracking Fund Shares, and Proxy Portfolio Shares on the Exchange and therefore would provide investors with an additional trading venue option. In addition, the proposal would specifically name products substantially similar to Investment Company Units known as Index Fund Shares on other exchanges in the list of product that may trade on the Exchange pursuant to unlisted trading privileges. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2020–61 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2020–61. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2020–61 and should be submitted on or before August 17, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–16160 Filed 7–24–20; 8:45 am]

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[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89358; File No. SR–NASDAQ–2020–027]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Apply Additional Initial Listing Criteria for Companies Primarily Operating in Restrictive Markets

July 21, 2020

On May 29, 2020, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to apply additional initial listing criteria for companies primarily operating in a jurisdiction that has secrecy laws, blocking statues, national security laws or other laws or regulations restricting access to information by regulators of U.S.-listed companies in such jurisdiction. The proposed rule change was published for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

comment in the **Federal Register** on June 12, 2020.[3]

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is July 27, 2020. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates September 10, 2020 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NASDAQ–2020–027).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–16155 Filed 7–24–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89363; File No. SR–FICC–2020–008]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Revise the Clearing Agency Policy on Capital Requirements

July 21, 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 July 15, 2020, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(3) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the Clearing Agency Policy on Capital Requirements (''Capital Policy'' or ''Policy'') of FICC and its affiliates, National Securities Clearing Corporation (''NSCC'') and The Depository Trust Company (''DTC,'' and together with FICC and NSCC, the ''Clearing Agencies''). In particular, the proposed revisions to the Capital Policy would (1) update the frequency of the calculation of the Total Capital Requirement (as defined below and in the Policy) to align with the Clearing Agencies' quarterly financial statements; (2) replace the description of the calculation of the Recovery/Wind-down Capital Requirement (as defined below and in the Policy) with a reference to the Clearing Agencies' Recovery & Wind-down Plans[5] to eliminate redundancy between these documents; (3) revise the description of the additional liquid net assets (''LNA'') funded by equity, referred to as the ''Buffer'' to provide the Clearing Agencies with flexibility in calculating this discretionary amount; and (4) make other updates and revisions to the Capital Policy in order to simplify the language and improve the clarity of the Policy, as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Clearing Agencies are proposing to revise the Capital Policy, which was adopted by the Clearing Agencies in July 2017[6] and is maintained by the Clearing Agencies in compliance with Rule 17Ad–22(e)(15) under the Act,[7] in order to (1) update the frequency of the calculation of the Total Capital Requirement to align with the Clearing Agencies' quarterly financial statements; (2) replace the description of the calculation of the Recovery/Wind-down Capital Requirement with a reference to the Clearing Agencies' Recovery & Wind-down Plans to eliminate redundancy between these documents; (3) revise the description of the additional LNA funded by equity, referred to as the ''Buffer'' to provide the Clearing Agencies with flexibility in calculating this discretionary amount; and (4) make other updates and revisions to the Capital Policy in order to simplify the language and improve the clarity of the Policy, as described in greater detail below.

Overview of the Capital Policy

The Capital Policy sets forth the manner in which each Clearing Agency identifies, monitors, and manages its general business risk with respect to the requirement to hold sufficient LNA funded by equity to cover potential general business losses so the Clearing Agency can continue operations and services as a going concern if such losses materialize.[8] The amount of LNA funded by equity to be held by each of the Clearing Agencies for this purpose is defined in the Policy as the General Business Risk Capital Requirement. The

[3] *See* Securities Exchange Act Release No. 89027 (June 8, 2020), 85 FR 35962. Comments on the proposed rule change can be found at: *https://www.sec.gov/comments/sr-nasdaq-2020-027/srnasdaq2020027.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(3).

[5] *See* Securities Exchange Act Release Nos. 83972 (August 28, 2018), 83 FR 44964 (September 4, 2018) (SR–DTC–2017–021); 83953 (August 27, 2018), 83 FR 44381 (August 30, 2018) (SR–DTC–2017–803); 83973 (August 28, 2018), 83 FR 44942 (September 4, 2018) (SR–FICC–2017–021); 83954 (August 27, 2018), 83 FR 44361 (August 30, 2018) (SR–FICC–2017–805); 83974 (August 28, 2018), 83 FR 44988 (September 4, 2018) (SR–NSCC–2017–017); 83955 (August 27, 2018), 83 FR 44340 (August 30, 2018) (SR–NSCC–2017–805).

[6] *See* Securities Exchange Act Release No. 81105 (July 7, 2017), 82 FR 32399 (July 13, 2017) (SR–DTC–2017–003, SR–FICC–2017–007, SR–NSCC–2017–004).

[7] 17 CFR 240.17Ad–22(e)(15).

[8] *Supra* note 6.

Policy provides that the General Business Risk Requirement is calculated for each Clearing Agency as the greatest of three separate calculations—(1) an amount based on that Clearing Agency's general business risk profile (''Risk-Based Capital Requirement''), (2) an amount based on the time estimated to execute a recovery or orderly wind-down of the critical operations of that Clearing Agency (''Recovery/Wind-down Capital Requirement''), and (3) an amount based on an analysis of that Clearing Agency's estimated operating expenses for a six month period (''Operating Expense Capital Requirement''). The General Business Risk Capital Requirement for each Clearing Agency is determined as the greatest of these calculations.

The Capital Policy also addresses how each Clearing Agency maintains an amount of LNA funded by equity as a part of its management of credit risk [9] pursuant to its respective rules,[10] referred to as the ''Corporate Contribution.'' These resources are maintained to address losses due to a participant default and are held in addition to the Clearing Agencies' General Business Risk Capital Requirement. The Capital Policy describes how each Clearing Agency's General Business Risk Capital Requirement and Corporate Contribution fit within the Clearing Agencies' Capital Framework, where the ''Total Capital Requirement'' of each Clearing Agency is calculated as the sum of its General Business Risk Capital Requirement and Corporate Contribution. Finally, the Policy provides a plan for the replenishment of capital through the Clearing Agency Capital Replenishment Plan.

Proposed Revisions to the Capital Policy

The Capital Policy is reviewed and approved by the Boards annually. In connection with the most recent annual review of the Policy, the Clearing Agencies are proposing revisions and updates, described in greater detail below. These proposed changes are designed to update the Capital Policy and enhance the clarity of the Policy to ensure that it continues to operate as intended.

1. Update Frequency of Calculation of Total Capital Requirement

The Clearing Agencies are proposing to update the Capital Policy to change the frequency of the calculation of the Total Capital Requirement to occur quarterly, and clarify that the calculation of the Total Capital Requirement would use the most recently completed calculations of the General Business Risk Capital Requirement and the Corporate Contribution. In connection with this proposed change, the Capital Policy would also be amended to remove references to the timing of the other calculations.

As described above, the Total Capital Requirement is the sum of the General Business Risk Capital Requirement and the Corporate Contribution; and the General Business Risk Capital Requirement is the greatest of the Risk-Based Capital Requirement, Recovery/Wind-down Capital Requirement and the Operating Expense Capital Requirement. Currently the Capital Policy states that the Total Capital Requirement is calculated monthly. The Capital Policy also describes the frequency of each of the other calculations that are used in calculating the Total Capital Requirement, which occur at different intervals throughout the year.

The Clearing Agencies are proposing to update the Capital Policy to state that the Total Capital Requirement will be calculated quarterly, using the most recently calculated components. This proposed change would align the timing of this calculation with the timing of each of the Clearing Agencies' quarterly financial statements, where the results of this calculation is reported. While the calculation would occur less frequently than it is currently conducted, the Total Capital Requirement amount does not change materially from month to month.[11] Therefore, the Clearing Agencies believe the calculation would still be completed on an appropriate frequency.

The proposed change would also simplify the Capital Policy by removing the reference to the frequency of each of the other calculations. Each of the other calculations that determine the Total Capital Requirement are completed at different frequencies throughout the year, as currently described in the Capital Policy, and all occur at least annually. The proposed change would state that the most recent results of these calculations would be used in the quarterly calculation of the Total Capital Requirement. These calculations have different purposes and provide the Clearing Agencies with different measures. Therefore, these calculations are completed at different frequencies during the year, generally timed to occur when updated information is available. By removing the frequency of these calculations from the Capital Policy, and only specifying the frequency of the Total Capital Requirement calculation, which would use the most recent results of these underlying calculations, the proposed change would simplify the Policy and would provide the Clearing Agencies with flexibility to adjust the timing of these calculations as necessary.

In order to reflect this change, the Clearing Agencies are proposing to update Section 4 of the Capital Policy to state that the Total Capital Requirement would be calculated quarterly, using the most recent calculations of the General Business Risk Capital Requirement and Corporate Contribution. The proposed changes would also remove statements in Sections 5, 6, 6.1.2 and 6.3 regarding the timing of the underlying calculations.

2. Update Description of Recovery/Wind-Down Capital Requirement To Refer to the Recovery & Wind-Down Plans of the Clearing Agencies

The Clearing Agencies are proposing to amend the Capital Policy with respect to the Recovery/Wind-down Capital Requirement to update references to the Recovery & Wind-down Plans of the Clearing Agencies. In connection with this change, the Capital Policy would also be updated to clarify the role of management in advising the Boards in connection with their annual determination of the Recovery/Wind-down Capital Requirement.

First, the proposed changes would replace descriptions of the calculation of the Recovery/Wind-down Capital Requirement with references to the Clearing Agencies' Recovery & Wind-down Plans, which have been adopted by the Clearing Agencies and include detailed descriptions of the calculation of this amount.[12] The Recovery/Wind-down Capital Requirement is an amount based on the time estimated to execute

[9] LNA funded by equity held as the Clearing Agencies' Corporate Contribution is held in addition to resources held by the Clearing Agencies for credit risk in compliance with Rule 17Ad–22(e)(4) under the Act, and in addition to resources held by the Clearing Agencies for liquidity risk in compliance with Rule 17Ad–22(e)(7). 17 CFR 240.17Ad–22(e)(4), (7).

[10] *See* Rule 4 of the Rules, By-laws and Organizational Certificate of DTC (''DTC Rules''), Rule 4 of the Rulebook of the Government Securities Division of FICC (''GSD Rules''), Rule 4 of the Clearing Rules of the Mortgage-Backed Securities Division of FICC (''MBSD Rules''), and Rule 4 of the Rules & Procedures of NSCC (''NSCC Rules,'' and together with the DTC Rules, GSD Rules and MBSD Rules, the ''Clearing Agencies' Rules'' or ''Rules''), *available at http://dtcc.com/legal/rules-and-procedures.*

[11] The Total Capital Requirement amount has been reported in footnote 9 to the Clearing Agencies' financial statements since the third quarter of 2018, *available at https://www.dtcc.com/legal/financial-statements.*

[12] *Supra* note 5.

a recovery or orderly wind-down of the critical operations of that Clearing Agency and is used by the Clearing Agencies to determine their General Business Risk Capital Requirement, as described above. Each of the Clearing Agencies have adopted a Recovery & Wind-down Plan, which provides plans for the recovery and orderly wind-down of each of the Clearing Agencies necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.[13] Section 8.7 of each of the Recovery & Wind-down Plans includes an analysis of the calculation of the Recovery/Wind-down Capital Requirement.

The Clearing Agencies believe their respective Recovery & Wind-down Plans are the appropriate documents for the description of the calculation of the Recovery/Wind-down Capital Requirement. The proposed change would remove redundancy between these documents and minimize the risk of inconsistency in this description.

In order to implement this change, the Clearing Agencies are proposing to (1) revise the definition of Recovery/Wind-down Capital Requirement in Section 2 of the Capital Policy to refer to the description of this amount in the Recovery & Wind-down Plan of each Clearing Agency; and (2) revise Section 6.2 of the Capital Policy to remove the description of the calculation of the Recovery/Wind-down Capital Requirement and replace it with a reference to this description in the Recovery & Wind-down Plan of each of the Clearing Agencies.

Second, the proposed changes would clarify the role of management with respect to the Boards' annual determination of the Recovery/Wind-down Capital Requirement. Pursuant to the Clearing Agencies' Recovery & Wind-down Plans, and in compliance with the requirements of Rule 17Ad-22(e)(15)(ii) under the Act,[14] the Boards are responsible for determining the Recovery/Wind-down Capital Requirement for each Clearing Agency on an annual basis.

The Treasury group of The Depository Trust & Clearing Corporation (''DTCC Treasury group'') and members of management in other relevant groups may provide the Boards with analyses and relevant data to facilitate this determination. Therefore, the Clearing Agencies are proposing to amend Section 6.2 of the Capital Policy to state that the DTCC Treasury group and members of management in other relevant groups may provide such information to the Boards.

3. Revise Description of Buffer Amount

The Clearing Agencies are proposing to amend the Capital Policy to revise the description of the additional, discretionary amount of LNA funded by equity held by the Clearing Agencies in addition to the Total Capital Requirement, which is referred to as a ''Buffer.'' Currently, the Capital Policy states that the amount of LNA funded by equity held as Buffer would be periodically assessed by the DTCC Treasury group and would generally equal approximately four to six (4–6) months of operating expenses for the respective Clearing Agency. The Clearing Agencies are proposing to make two changes to the description of the Buffer in the Capital Policy, described below.

First, the Clearing Agencies are proposing to remove the specificity regarding how the Buffer amount held by the Clearing Agencies is measured. This proposed change would provide the Clearing Agencies with flexibility to manage capital when determining the appropriate amount of LNA funded by equity that they would each hold in addition to the Total Capital Requirement. The Clearing Agencies would implement this proposed change by amending the description of Buffer in Section 4 of the Capital Policy to remove the reference to four to six (4–6) months of operating expenses, and state simply that this amount is determined based on various factors, including historical fluctuations of LNA and estimates of potential losses from general business risk.

Second, the Clearing Agencies are proposing to amend Section 4 of the Capital Policy to clarify that the Buffer will be calculated at least annually. Currently the Capital Policy states that the Buffer will be calculated periodically. This proposed change would provide more specificity regarding the frequency of this calculation.

4. Technical Revisions and Clarifications

In addition to the proposed changes described above, the Clearing Agencies are also proposing the following technical revisions to the Capital Policy.

First, the proposed changes would update the description of the Corporate Contribution in Figure 1 of Section 4 of the Capital Policy. The proposed change would replace the current description of this amount with a reference to the Clearing Agencies' Rules, where this amount is defined. The proposed change would align the description in Figure 1 of Section 4 with the description of the Corporate Contribution in Section 5 of the Capital Policy, which also describes the Corporate Contribution by referring to the Clearing Agencies' Rules.

Second, the proposed changes would revise Section 6.3 of the Capital Policy to use the defined term for Operating Expense Capital Requirement, which is defined in the Glossary of Key Terms in Section 2 of the Capital Policy.

Third, the proposed changes would also revise Section 6.3 to clarify that the data used to estimate prospective Clearing Agency expenses in calculating the Operating Expense Capital Requirement comes from a budget developed by the Financial Planning & Analysis department for the respective Clearing Agencies.

Finally, the proposed changes would update Section 7.2 of the Capital Policy, which describes where the Clearing Agencies report their assessment of LNA funded by equity against the Total Capital Requirement. The proposed change would state that, in addition to internal reporting, this assessment is also reported publicly in the Clearing Agencies' financial statements.

Each of these proposed changes would make technical drafting corrections or clarifications to the existing descriptions in the Capital Policy. While these proposed changes would not substantively alter the descriptions in the Capital Policy, they would improve the clarity of the Policy.

2. Statutory Basis

The Clearing Agencies believe that the proposed rule changes to the Capital Policy are consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency. In particular, the Clearing Agencies believe that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act[15] and Rule 17Ad–22(e)(15) under the Act,[16] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of the Clearing Agencies be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the Clearing Agencies or for which they are responsible.[17] The Capital Policy is designed to ensure that each of the Clearing Agencies hold sufficient LNA

[13] *Id.*

[14] 17 CFR 240.17Ad–22(e)(15)(ii).

[15] 15 U.S.C. 78q–1(b)(3)(F).

[16] 17 CFR 240.17Ad–22(e)(15).

[17] 15 U.S.C. 78q–1(b)(3)(F).

funded by equity to cover potential general business losses so that they can continue the prompt and accurate clearance and settlement of securities transactions, and can continue to assure the safeguarding of securities and funds which are in their custody or control or for which they are responsible if those losses materialize.

The proposed changes described above would not materially alter how the Capital Policy accomplishes this goal. The proposed changes would update the frequency of the calculation of the amount of LNA funded by equity held by the Clearing Agencies. Changing this frequency would not alter the Clearing Agencies' ability to hold an amount needed to cover potential general business losses, as the result of these calculations do not currently change materially on a month to month basis. The proposed change to refer to the Clearing Agencies' Recovery & Wind-down Plans for the description of the Recovery/Wind-down Capital Requirement would reduce the redundancy between the Policy and these plans, and would not alter the calculation of this amount. The proposed change to the description of the Buffer would provide the Clearing Agencies with additional flexibility in calculating this amount, which is held in addition to the amounts needed to meet compliance with their regulatory requirements. Finally, the proposed technical revisions would simplify and clarify the descriptions in the Policy, and would not alter the way the Policy operates.

The proposed revisions would not materially change how the Policy ensures that each of the Clearing Agencies hold sufficient LNA funded by equity to cover potential general business losses but would allow the Clearing Agencies to maintain this document to operate in the way it was intended. Therefore, such proposed revisions would be consistent with the requirements of Section 17A(b)(3)(F) of the Act.[18]

Rule 17Ad–22(e)(15) under the Act requires the Clearing Agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor, and manage their respective general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that the Clearing Agencies can continue operations and services as a going concern if those losses materialize.[19] As originally implemented, the Capital Policy was designed to meet the requirements of Rule 17Ad–22(e)(15). For the reasons described above, the proposed revisions would not materially alter how the Clearing Agencies comply with their requirements under this rule. Therefore, the proposed changes would allow the Clearing Agencies to maintain the Capital Policy in a way that continues to be consistent with the requirements of Rule 17Ad–22(e)(15) under the Act.[20]

(B) Clearing Agency's Statement on Burden on Competition

Each of the Clearing Agencies believes that none of the proposed revisions to the Capital Policy would have any impact, or impose any burden, on competition. The Policy is maintained by the Clearing Agencies in order to satisfy their regulatory requirements and generally reflect internal tools and procedures. Tools and procedures that have a direct impact on the rights, responsibilities or obligations of members or participants of the Clearing Agencies are reflected in the Clearing Agencies' Rules. Accordingly, the Capital Policy enhances the Clearing Agencies' regulatory compliance and internal management and does not have any impact, or impose any burden, on competition.

The proposed revisions would not effect any changes to the fundamental purpose or materially impact the operation of the Capital Policy. As such, the proposed changes also would not have any impact, or impose any burden, on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Clearing Agencies have not solicited or received any written comments relating to this proposal. The Clearing Agencies will notify the Commission of any written comments received by the Clearing Agencies.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[21] of the Act and paragraph (f)[22] of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–FICC–2020–008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–FICC–2020–008. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–FICC–2020–008 and should be submitted on or before August 17, 2020.

[18] *Id.*

[19] 17 CFR 240.17Ad–22(e)(15).

[20] *Id.*

[21] 15 U.S.C 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–16159 Filed 7–24–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89360; File No. SR–NSCC–2020–014]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Revise the Clearing Agency Policy on Capital Requirements

July 21, 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 July 15, 2020, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(3) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the Clearing Agency Policy on Capital Requirements (''Capital Policy'' or ''Policy'') of NSCC and its affiliates, The Depository Trust Company (''DTC'') and Fixed Income Clearing Corporation (''FICC,'' and together with DTC and NSCC, the ''Clearing Agencies''). In particular, the proposed revisions to the Capital Policy would (1) update the frequency of the calculation of the Total Capital Requirement (as defined below and in the Policy) to align with the Clearing Agencies' quarterly financial statements; (2) replace the description of the calculation of the Recovery/Wind-down Capital Requirement (as defined below and in the Policy) with a reference to the Clearing Agencies' Recovery & Wind-down Plans[5] to eliminate redundancy between these documents; (3) revise the description of the additional liquid net assets (''LNA'') funded by equity, referred to as the ''Buffer'' to provide the Clearing Agencies with flexibility in calculating this discretionary amount; and (4) make other updates and revisions to the Capital Policy in order to simplify the language and improve the clarity of the Policy, as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Clearing Agencies are proposing to revise the Capital Policy, which was adopted by the Clearing Agencies in July 2017[6] and is maintained by the Clearing Agencies in compliance with Rule 17Ad–22(e)(15) under the Act,[7] in order to (1) update the frequency of the calculation of the Total Capital Requirement to align with the Clearing Agencies' quarterly financial statements; (2) replace the description of the calculation of the Recovery/Wind-down Capital Requirement with a reference to the Clearing Agencies' Recovery & Wind-down Plans to eliminate redundancy between these documents; (3) revise the description of the additional LNA funded by equity, referred to as the ''Buffer'' to provide the Clearing Agencies with flexibility in calculating this discretionary amount; and (4) make other updates and revisions to the Capital Policy in order to simplify the language and improve the clarity of the Policy, as described in greater detail below.

Overview of the Capital Policy

The Capital Policy sets forth the manner in which each Clearing Agency identifies, monitors, and manages its general business risk with respect to the requirement to hold sufficient LNA funded by equity to cover potential general business losses so the Clearing Agency can continue operations and services as a going concern if such losses materialize.[8] The amount of LNA funded by equity to be held by each of the Clearing Agencies for this purpose is defined in the Policy as the General Business Risk Capital Requirement. The Policy provides that the General Business Risk Requirement is calculated for each Clearing Agency as the greatest of three separate calculations—(1) an amount based on that Clearing Agency's general business risk profile (''Risk-Based Capital Requirement''), (2) an amount based on the time estimated to execute a recovery or orderly wind-down of the critical operations of that Clearing Agency (''Recovery/Wind-down Capital Requirement''), and (3) an amount based on an analysis of that Clearing Agency's estimated operating expenses for a six month period (''Operating Expense Capital Requirement''). The General Business Risk Capital Requirement for each Clearing Agency is determined as the greatest of these calculations.

The Capital Policy also addresses how each Clearing Agency maintains an amount of LNA funded by equity as a part of its management of credit risk[9] pursuant to its respective rules,[10] referred to as the ''Corporate Contribution.'' These resources are maintained to address losses due to a

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(3).

[5] *See* Securities Exchange Act Release Nos. 83972 (August 28, 2018), 83 FR 44964 (September 4, 2018) (SR–DTC–2017–021); 83953 (August 27, 2018), 83 FR 44381 (August 30, 2018) (SR–DTC–2017–803); 83973 (August 28, 2018), 83 FR 44942 (September 4, 2018) (SR–FICC–2017–021); 83954 (August 27, 2018), 83 FR 44361 (August 30, 2018) (SR–FICC–2017–805); 83974 (August 28, 2018), 83 FR 44988 (September 4, 2018) (SR–NSCC–2017–017); 83955 (August 27, 2018), 83 FR 44340 (August 30, 2018) (SR–NSCC–2017–805).

[6] *See* Securities Exchange Act Release No. 81105 (July 7, 2017), 82 FR 32399 (July 13, 2017) (SR–DTC–2017–003, SR–FICC–2017–007, SR–NSCC–2017–004).

[7] 17 CFR 240.17Ad–22(e)(15).

[8] *Supra* note 6.

[9] LNA funded by equity held as the Clearing Agencies' Corporate Contribution is held in addition to resources held by the Clearing Agencies for credit risk in compliance with Rule 17Ad–22(e)(4) under the Act, and in addition to resources held by the Clearing Agencies for liquidity risk in compliance with Rule 17Ad–22(e)(7). 17 CFR 240.17Ad–22(e)(4), (7).

[10] *See* Rule 4 of the Rules, By-laws and Organizational Certificate of DTC (''DTC Rules''), Rule 4 of the Rulebook of the Government Securities Division of FICC (''GSD Rules''), Rule 4 of the Clearing Rules of the Mortgage-Backed Securities Division of FICC (''MBSD Rules''), and Rule 4 of the Rules & Procedures of NSCC (''NSCC Rules,'' and together with the DTC Rules, GSD Rules and MBSD Rules, the ''Clearing Agencies' Rules'' or ''Rules''), *available at http://dtcc.com/legal/rules-and-procedures.*

participant default and are held in addition to the Clearing Agencies' General Business Risk Capital Requirement. The Capital Policy describes how each Clearing Agency's General Business Risk Capital Requirement and Corporate Contribution fit within the Clearing Agencies' Capital Framework, where the ''Total Capital Requirement'' of each Clearing Agency is calculated as the sum of its General Business Risk Capital Requirement and Corporate Contribution. Finally, the Policy provides a plan for the replenishment of capital through the Clearing Agency Capital Replenishment Plan.

Proposed Revisions to the Capital Policy

The Capital Policy is reviewed and approved by the Boards annually. In connection with the most recent annual review of the Policy, the Clearing Agencies are proposing revisions and updates, described in greater detail below. These proposed changes are designed to update the Capital Policy and enhance the clarity of the Policy to ensure that it continues to operate as intended.

1. Update Frequency of Calculation of Total Capital Requirement

The Clearing Agencies are proposing to update the Capital Policy to change the frequency of the calculation of the Total Capital Requirement to occur quarterly, and clarify that the calculation of the Total Capital Requirement would use the most recently completed calculations of the General Business Risk Capital Requirement and the Corporate Contribution. In connection with this proposed change, the Capital Policy would also be amended to remove references to the timing of the other calculations.

As described above, the Total Capital Requirement is the sum of the General Business Risk Capital Requirement and the Corporate Contribution; and the General Business Risk Capital Requirement is the greatest of the Risk-Based Capital Requirement, Recovery/Wind-down Capital Requirement and the Operating Expense Capital Requirement. Currently the Capital Policy states that the Total Capital Requirement is calculated monthly. The Capital Policy also describes the frequency of each of the other calculations that are used in calculating the Total Capital Requirement, which occur at different intervals throughout the year.

The Clearing Agencies are proposing to update the Capital Policy to state that the Total Capital Requirement will be calculated quarterly, using the most recently calculated components. This proposed change would align the timing of this calculation with the timing of each of the Clearing Agencies' quarterly financial statements, where the results of this calculation is reported. While the calculation would occur less frequently than it is currently conducted, the Total Capital Requirement amount does not change materially from month to month.[11] Therefore, the Clearing Agencies believe the calculation would still be completed on an appropriate frequency.

The proposed change would also simplify the Capital Policy by removing the reference to the frequency of each of the other calculations. Each of the other calculations that determine the Total Capital Requirement are completed at different frequencies throughout the year, as currently described in the Capital Policy, and all occur at least annually. The proposed change would state that the most recent results of these calculations would be used in the quarterly calculation of the Total Capital Requirement. These calculations have different purposes and provide the Clearing Agencies with different measures. Therefore, these calculations are completed at different frequencies during the year, generally timed to occur when updated information is available. By removing the frequency of these calculations from the Capital Policy, and only specifying the frequency of the Total Capital Requirement calculation, which would use the most recent results of these underlying calculations, the proposed change would simplify the Policy and would provide the Clearing Agencies with flexibility to adjust the timing of these calculations as necessary.

In order to reflect this change, the Clearing Agencies are proposing to update Section 4 of the Capital Policy to state that the Total Capital Requirement would be calculated quarterly, using the most recent calculations of the General Business Risk Capital Requirement and Corporate Contribution. The proposed changes would also remove statements in Sections 5, 6, 6.1.2 and 6.3 regarding the timing of the underlying calculations.

2. Update Description of Recovery/Wind-Down Capital Requirement To Refer to the Recovery & Wind-Down Plans of the Clearing Agencies

The Clearing Agencies are proposing to amend the Capital Policy with respect to the Recovery/Wind-down Capital Requirement to update references to the Recovery & Wind-down Plans of the Clearing Agencies. In connection with this change, the Capital Policy would also be updated to clarify the role of management in advising the Boards in connection with their annual determination of the Recovery/Wind-down Capital Requirement.

First, the proposed changes would replace descriptions of the calculation of the Recovery/Wind-down Capital Requirement with references to the Clearing Agencies' Recovery & Wind-down Plans, which have been adopted by the Clearing Agencies and include detailed descriptions of the calculation of this amount.[12] The Recovery/Wind-down Capital Requirement is an amount based on the time estimated to execute a recovery or orderly wind-down of the critical operations of that Clearing Agency and is used by the Clearing Agencies to determine their General Business Risk Capital Requirement, as described above. Each of the Clearing Agencies have adopted a Recovery & Wind-down Plan, which provides plans for the recovery and orderly wind-down of each of the Clearing Agencies necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.[13] Section 8.7 of each of the Recovery & Wind-down Plans includes an analysis of the calculation of the Recovery/Wind-down Capital Requirement.

The Clearing Agencies believe their respective Recovery & Wind-down Plans are the appropriate documents for the description of the calculation of the Recovery/Wind-down Capital Requirement. The proposed change would remove redundancy between these documents and minimize the risk of inconsistency in this description.

In order to implement this change, the Clearing Agencies are proposing to (1) revise the definition of Recovery/Wind-down Capital Requirement in Section 2 of the Capital Policy to refer to the description of this amount in the Recovery & Wind-down Plan of each Clearing Agency; and (2) revise Section 6.2 of the Capital Policy to remove the description of the calculation of the Recovery/Wind-down Capital Requirement and replace it with a

[11] The Total Capital Requirement amount has been reported in footnote 9 to the Clearing Agencies' financial statements since the third quarter of 2018, *available at https://www.dtcc.com/legal/financial-statements.*

[12] *Supra* note 5.

[13] *Id.*

reference to this description in the Recovery & Wind-down Plan of each of the Clearing Agencies.

Second, the proposed changes would clarify the role of management with respect to the Boards' annual determination of the Recovery/Wind-down Capital Requirement. Pursuant to the Clearing Agencies' Recovery & Wind-down Plans, and in compliance with the requirements of Rule 17Ad–22(e)(15)(ii) under the Act,[14] the Boards are responsible for determining the Recovery/Wind-down Capital Requirement for each Clearing Agency on an annual basis.

The Treasury group of The Depository Trust & Clearing Corporation (''DTCC Treasury group'') and members of management in other relevant groups may provide the Boards with analyses and relevant data to facilitate this determination. Therefore, the Clearing Agencies are proposing to amend Section 6.2 of the Capital Policy to state that the DTCC Treasury group and members of management in other relevant groups may provide such information to the Boards.

3. Revise Description of Buffer Amount

The Clearing Agencies are proposing to amend the Capital Policy to revise the description of the additional, discretionary amount of LNA funded by equity held by the Clearing Agencies in addition to the Total Capital Requirement, which is referred to as a ''Buffer.'' Currently, the Capital Policy states that the amount of LNA funded by equity held as Buffer would be periodically assessed by the DTCC Treasury group and would generally equal approximately four to six (4–6) months of operating expenses for the respective Clearing Agency. The Clearing Agencies are proposing to make two changes to the description of the Buffer in the Capital Policy, described below.

First, the Clearing Agencies are proposing to remove the specificity regarding how the Buffer amount held by the Clearing Agencies is measured. This proposed change would provide the Clearing Agencies with flexibility to manage capital when determining the appropriate amount of LNA funded by equity that they would each hold in addition to the Total Capital Requirement. The Clearing Agencies would implement this proposed change by amending the description of Buffer in Section 4 of the Capital Policy to remove the reference to four to six (4–6) months of operating expenses, and state simply that this amount is determined based on various factors, including historical fluctuations of LNA and estimates of potential losses from general business risk.

Second, the Clearing Agencies are proposing to amend Section 4 of the Capital Policy to clarify that the Buffer will be calculated at least annually. Currently the Capital Policy states that the Buffer will be calculated periodically. This proposed change would provide more specificity regarding the frequency of this calculation.

4. Technical Revisions and Clarifications

In addition to the proposed changes described above, the Clearing Agencies are also proposing the following technical revisions to the Capital Policy.

First, the proposed changes would update the description of the Corporate Contribution in Figure 1 of Section 4 of the Capital Policy. The proposed change would replace the current description of this amount with a reference to the Clearing Agencies' Rules, where this amount is defined. The proposed change would align the description in Figure 1 of Section 4 with the description of the Corporate Contribution in Section 5 of the Capital Policy, which also describes the Corporate Contribution by referring to the Clearing Agencies' Rules.

Second, the proposed changes would revise Section 6.3 of the Capital Policy to use the defined term for Operating Expense Capital Requirement, which is defined in the Glossary of Key Terms in Section 2 of the Capital Policy.

Third, the proposed changes would also revise Section 6.3 to clarify that the data used to estimate prospective Clearing Agency expenses in calculating the Operating Expense Capital Requirement comes from a budget developed by the Financial Planning & Analysis department for the respective Clearing Agencies.

Finally, the proposed changes would update Section 7.2 of the Capital Policy, which describes where the Clearing Agencies report their assessment of LNA funded by equity against the Total Capital Requirement. The proposed change would state that, in addition to internal reporting, this assessment is also reported publicly in the Clearing Agencies' financial statements.

Each of these proposed changes would make technical drafting corrections or clarifications to the existing descriptions in the Capital Policy. While these proposed changes would not substantively alter the descriptions in the Capital Policy, they would improve the clarity of the Policy.

2. Statutory Basis

The Clearing Agencies believe that the proposed rule changes to the Capital Policy are consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency. In particular, the Clearing Agencies believe that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act[15] and Rule 17Ad–22(e)(15) under the Act,[16] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of the Clearing Agencies be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the Clearing Agencies or for which they are responsible.[17] The Capital Policy is designed to ensure that each of the Clearing Agencies hold sufficient LNA funded by equity to cover potential general business losses so that they can continue the prompt and accurate clearance and settlement of securities transactions, and can continue to assure the safeguarding of securities and funds which are in their custody or control or for which they are responsible if those losses materialize.

The proposed changes described above would not materially alter how the Capital Policy accomplishes this goal. The proposed changes would update the frequency of the calculation of the amount of LNA funded by equity held by the Clearing Agencies. Changing this frequency would not alter the Clearing Agencies' ability to hold an amount needed to cover potential general business losses, as the result of these calculations do not currently change materially on a month to month basis. The proposed change to refer to the Clearing Agencies' Recovery & Wind-down Plans for the description of the Recovery/Wind-down Capital Requirement would reduce the redundancy between the Policy and these plans, and would not alter the calculation of this amount. The proposed change to the description of the Buffer would provide the Clearing Agencies with additional flexibility in calculating this amount, which is held in addition to the amounts needed to meet compliance with their regulatory requirements. Finally, the proposed technical revisions would simplify and clarify the descriptions in the Policy, and would not alter the way the Policy operates.

[14] 17 CFR 240.17Ad–22(e)(15)(ii).

[15] 15 U.S.C. 78q–1(b)(3)(F).

[16] 17 CFR 240.17Ad–22(e)(15).

[17] 15 U.S.C. 78q–1(b)(3)(F).

The proposed revisions would not materially change how the Policy ensures that each of the Clearing Agencies hold sufficient LNA funded by equity to cover potential general business losses but would allow the Clearing Agencies to maintain this document to operate in the way it was intended. Therefore, such proposed revisions would be consistent with the requirements of Section 17A(b)(3)(F) of the Act.[18]

Rule 17Ad–22(e)(15) under the Act requires the Clearing Agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor, and manage their respective general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that the Clearing Agencies can continue operations and services as a going concern if those losses materialize.[19] As originally implemented, the Capital Policy was designed to meet the requirements of Rule 17Ad–22(e)(15). For the reasons described above, the proposed revisions would not materially alter how the Clearing Agencies comply with their requirements under this rule. Therefore, the proposed changes would allow the Clearing Agencies to maintain the Capital Policy in a way that continues to be consistent with the requirements of Rule 17Ad–22(e)(15) under the Act.[20]

(B) Clearing Agency's Statement on Burden on Competition

Each of the Clearing Agencies believes that none of the proposed revisions to the Capital Policy would have any impact, or impose any burden, on competition. The Policy is maintained by the Clearing Agencies in order to satisfy their regulatory requirements and generally reflect internal tools and procedures. Tools and procedures that have a direct impact on the rights, responsibilities or obligations of members or participants of the Clearing Agencies are reflected in the Clearing Agencies' Rules. Accordingly, the Capital Policy enhances the Clearing Agencies' regulatory compliance and internal management and does not have any impact, or impose any burden, on competition.

The proposed revisions would not effect any changes to the fundamental purpose or materially impact the operation of the Capital Policy. As such, the proposed changes also would not have any impact, or impose any burden, on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Clearing Agencies have not solicited or received any written comments relating to this proposal. The Clearing Agencies will notify the Commission of any written comments received by the Clearing Agencies.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[21] of the Act and paragraph (f)[22] of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–NSCC–2020–014 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–NSCC–2020–014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NSCC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–NSCC–2020–014 and should be submitted on or before August 17, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–16157 Filed 7–24–20; 8:45 am]

BILLING CODE 8011–01–P

[18] *Id.*

[19] 17 CFR 240.17Ad–22(e)(15).

[20] *Id.*

[21] 15 U.S.C 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89370; File No. SR–NYSEAMER–2020–56]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.37E

July 21, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on July 14, 2020, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.37E to specify the Exchange's source of data feeds from MEMX LLC (''MEMX'') for purposes of order handling, order execution, order routing, and regulatory compliance. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update and amend the use of data feeds table in Rule 7.37E, which sets forth on a market-by-market basis the specific securities information processor (''SIP'') and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, the Exchange proposes to amend the table in Rule 7.37E(d) to specify that, for MEMX, the Exchange will receive the SIP feed as its primary source of data for order handling, order execution, order routing, and regulatory compliance. The Exchange will not have a secondary source for data from MEMX.

The Exchange proposes that this proposed rule change would be operative on the day that MEMX launches operations as an equities exchange, which is currently expected on September 4, 2020.[4]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5),[6] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes its proposal to amend the table in Rule 7.37E(d) to include the data feed source for MEMX will ensure that Rule 7.37E correctly identifies and publicly states on a market-by-market basis all of the specific SIP and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks for each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest by providing additional specificity, clarity, and transparency in the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue, but rather would provide the public and market participants with up-to-date information about the data feeds the Exchange will use for the handling, execution, and routing of orders, as well as for regulatory compliance.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[9] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2020–56 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2020–56. 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

[4] *See https://memx.com/memx-timeline-update-launch-set-for-september-4th/.*

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 15 U.S.C. 78s(b)(2)(B).

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange and on its internet website at *https://www.nyse.com.* All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NYSEAMER–2020–56 and should be submitted on or before August 17, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–16164 Filed 7–24–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–186, OMB Control No. 3235–0186]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Revision: Form N–8B–2

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 (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form N–8B–2 (17 CFR 274.12) is the form used by unit investment trusts (''UITs'') other than separate accounts that are currently issuing securities, including UITs that are issuers of periodic payment plan certificates and UITs of which a management investment company is the sponsor or depositor, to comply with the filing and disclosure requirements imposed by section 8(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-8(b)). Form N–8B–2 requires disclosure about the organization of a UIT, its securities, the personnel and affiliated persons of the depositor, the distribution and redemption of securities, the trustee or custodian, and financial statements. The Commission uses the information provided in the collection of information to determine compliance with section 8(b) of the Investment Company Act.

Each registrant subject to the Form N–8B–2 filing requirement files Form N–8B–2 for its initial filing and does not file post-effective amendments on Form N–8B–2.[1] The Commission staff estimates that approximately one respondent files one Form N–8B–2 filing annually with the Commission. Based on form amendments to include formatting and hyperlinking requirements to Form N–8B–2 arising from the adoption of the FAST Act release,[2] staff estimates that the burden for compliance with Form N–8B–2 is approximately 28 hours per filing.[3] The total hourly burden for the Form N–8B–2 filing requirement therefore is 28 hours in the aggregate (1 respondent × one filing per respondent × 28 hours per filing), at an internal cost burden of $9,912, and external cost burden of $10,300.

Estimates of the burden hours are made solely for the purposes of the PRA and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms. The information provided on Form N–8B–2 is mandatory. The information provided on Form N–8B–2 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 OMB control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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.

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 21, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–16141 Filed 7–24–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89359; File No. SR–NYSEArca–2020–68]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update the NYSE Arca Options Fee Schedule

July 21, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on July 16, 2020 NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I 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.

[10] 17 CFR 200.30–3(a)(12).

[1] Post-effective amendments are filed with the Commission on the UIT's Form S–6. Hence, respondents only file Form N–8B–2 for their initial registration statement and not for post-effective amendments.

[2] *FAST Act Modernization and Simplification of Regulation S–K,* Securities Act Release No. 10618 (March 20, 2019) [84 FR 12674 (April 2, 2019)].

[3] Staff estimates are also adjusted to reflect new disclosures for UIT ETFs arising from the adoption of the Exchange-Traded Funds release. *See* Exchange-Traded Funds, Investment Company Act Release No. 33646 (Sept. 25, 2019) [84 FR 57162 (Oct. 24, 2019)].

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify its rules to conform the terminology in the NYSE Arca Options Fee Schedule (''Fee Schedule'') to Rule 6.72A–O (Requirements for Penny Interval Program), which permits quoting in penny increments for certain option classes on a permanent basis. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify its rules to conform the terminology in the Fee Schedule to Rule 6.72A–O (Requirements for Penny Interval Program), which permits quoting in penny increments for certain option classes on a permanent basis. In sum, the Exchange proposes to define ''Penny'' and ''non-Penny'' issues, with cross-reference to Rule 6.72A–O and to eliminate from the Fee Schedule obsolete references to the ''Pilot'' program. This filing is technical in nature as it merely updates the nomenclature regarding transactions in Penny and non-Penny issues and does not modify any associated fees or credits for such transactions.

Background

On April 1, 2020, the U.S. Securities and Exchange Commission (the ''Commission'') approved Amendment No. 5 to the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options to Adopt a Penny Interval Program (''Amendment No. 5'').[4] The Exchange then filed to conform its rules—including Rule 6.27A–O—to Amendment No. 5, which rules (like Amendment No. 5) became operative July 1, 2020 (the ''Penny Program'').[5] The Penny Pilot, which was adopted in 2007 and extended and expanded over the years, expired by its own terms on June 30, 2020.[6]

Proposed Changes

The Exchange proposes to modify the terminology in the Fee Schedule to align with the terminology in the Penny Program by adding new definitions for ''Penny'' and ''non-Penny'' issues and eliminating all references to ''Pilot.'' [7] As proposed, a '' 'Penny' issue or class refers to option classes that participate in the Penny Interval Program, as described in Rule 6.72A–O'' and a '''non-Penny' issue or class refers to option classes that do not participate in the Penny Interval Program, as described in Rule 6.72A–O.'' [8]

Consistent with the foregoing, the Exchange proposes to eliminate from the Fee Schedule all references to ''Pilot'' as that term relates to the ''Penny Pilot'' because such references became obsolete as of July 1, 2020.[9]

For consistency in usage and terminology, the Exchange proposes to modify references to ''non-Penny'' in existing text to consistently hyphenate and utilize a lower case ''n'' to denote the term except when it is used in a section or column heading, which would add clarity, transparency and internal consistency.[10]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the proposed rule change, which conforms the terminology in the Fee Schedule to Rule 6.72A–O, promotes just and equitable principles of trade because it does not alter any existing fees or credits but instead is technical in nature insofar as it adopts new definitions for ''Penny'' and ''non-Penny'' issues, consistent with Exchange rules, and removes references to the now-expired (Penny) ''Pilot.'' This proposed change would provide internal consistency within Exchange rules and operate to protect investors and the investing public by making the Exchange rules easier to navigate and comprehend. The proposed change would render the rules more accurate and reduce potential investor confusion, thus helping to facilitate the maintenance of a fair and orderly market.

Regarding the proposed technical changes (*see supra* notes 9 and 10), the Exchange believes the changes would add clarity and transparency to the Fee Schedule making it easier to navigate and comprehend to the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal, which modifies the terminology in the Fee Schedule to align with the terminology in the Exchange's rules, is not a competitive filing. Instead, the proposed change is meant to add clarity and transparency to the Fee Schedule to the benefit of all market participants that trade on the Exchange. Given the technical nature of this filing, the Exchange anticipates that other options exchanges will similarly update their fee schedules (as needed) to align

[4] *See* Securities Exchange Act Release No. 88532 (April 1, 2020), 85 FR 19545 (April 7, 2020) (File No 4–443).

[5] *See* Securities Exchange Act Release No. 88943 (May 26, 2020), 85 FR 33255 (June 1, 2020) (SR–NYSEArca–2020–50) (immediately effective filing that is operative on July 1, 2020, which outlines the history of the Penny Pilot program and details the process for the Penny Interval Program).

[6] *See* Securities Exchange Act Release No. 87610 (November 25, 2019) 84 FR 66047 (December 2, 2019) (NYSEArca-2019–83).

[7] *See generally* proposed Fee Schedule, NYSE Arca OPTIONS: TRADE–RELATED CHARGES FOR STANDARD OPTIONS and NYSE Arca OPTIONS: GENERAL.

[8] *See* proposed Fee Schedule, NYSE Arca OPTIONS: TRADE–RELATED CHARGES FOR STANDARD OPTIONS.

[9] *See* proposed Fee Schedule, NYSE Arca OPTIONS: TRADE–RELATED CHARGES FOR STANDARD OPTIONS (deleting reference to ''Pilot'' throughout) and NYSE Arca OPTIONS: GENERAL, Endnote 6 (deleting reference to ''Pilot'' and including a reference to Penny Interval Program and cross reference to Rule 6.72A–O).

[10] *See generally* proposed Fee Schedule, NYSE Arca OPTIONS: TRADE–RELATED CHARGES FOR STANDARD OPTIONS.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

with any rule(s) adopted in conformance with Amendment No. 5.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14] Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) [16] thereunder. The Exchange has proposed to implement the proposed rule change immediately upon filing and has asked the Commission to waive the 30-day operative delay for this filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to modify the terminology in its fee schedule to conform it to the Penny Program, which is currently described in NYSE Arca Rule 6.72A–O. The proposed rule change does not raise any novel issues and is technical in nature as it is designed to update the language in the Exchange's fee schedule to reflect the language used throughout the Exchange's rulebook. The Commission believes that the proposed rule change proposes ministerial changes which are designed to alleviate the potential for investor confusion. Accordingly, the Commission designates the proposed rule change as operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form *(http://www.sec.gov/rules/sro.shtml*); or
- Send an email *to rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2020–68 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca-2020–68. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website *(http://www.sec.gov/rules/sro.shtml).*

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2020–68 and should be submitted on or before August 17, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–16156 Filed 7–24–20; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b-4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[17] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995 requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before September 25, 2020.

ADDRESSES: Send all comments to Paula Tavares, Director, Marketing and Customer Service Office of Communications & Public Liaison *paula.tavares@sba.gov,* Small Business Administration, 409 3rd Street, 7th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Paula Tavares, Director, Marketing and Customer Service Office of Communications & Public Liaison 202–590–0479 *paula.tavares@sba.gov,* or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: The information collected from the public, including our program participants and stakeholders, will help ensure users have an effective, and satisfying experience with the programs and activities offered or sponsored by the Small Business Administration. The information will provide insights into the public's perceptions, experience and expectations, and help focus attention

on areas where communication, training or changes in operations might improve delivery of products or services.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

(1) *Title:* Generic Clearance for the Collection of Qualitative and Quantitative Feedback on Agency Service Delivery.''

Description of Respondents: Program participants and stakeholders.

Form Number: N/A.

Total Estimated Annual Responses: 500,000.

Total Estimated Annual Hour Burden: 70,000.

Curtis Rich,

Management Analyst.

[FR Doc. 2020–16237 Filed 7–24–20; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 16555 and # 16556; Ohio Disaster Number OH–00079]

Administrative Declaration of a Disaster for the State of Ohio

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Ohio dated 07/20/2020.

Incident: Severe Storms and Flooding.

Incident Period: 05/18/2020 through 05/19/2020.

DATES: Issued on 07/20/2020.

Physical Loan Application Deadline Date: 09/18/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 04/20/2021.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Franklin

Contiguous Counties:

Ohio: Delaware, Fairfield, Licking, Madison, Pickaway, Union.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	2.500
Homeowners Without Credit Available Elsewhere	1.250
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	3.000
Non-Profit Organizations With Credit Available Elsewhere	2.750
Non-Profit Organizations Without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	3.000
Non-Profit Organizations Without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16555 6 and for economic injury is 16556 0.

The State which received an EIDL Declaration # is Ohio.

(Catalog of Federal Domestic Assistance Number 59008)

Jovita Carranza,

Administrator.

[FR Doc. 2020–16187 Filed 7–24–20; 8:45 am]

BILLING CODE 8026–03–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2015–0056]

Privacy Act of 1974; System of Records

AGENCY: Deputy Commissioner of Human Resources, Social Security Administration (SSA).

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act, we are issuing public notice of our intent to modify an existing system of records, the Anti-Harassment & Hostile Work Environment Case Tracking and Records System (60–0380), last published on December 2, 2016. This notice publishes details of the modified system as set forth under the caption, **SUPPLEMENTARY INFORMATION**.

DATES: The system of records notice (SORN) is applicable upon its publication in today's **Federal Register**, with the exception of the routine uses, which are effective August 26, 2020. We invite public comment on the routine uses or other aspects of this SORN. In accordance with 5 U.S.C. 552a(e)(4) and (e)(11), the public is given a 30-day period in which to submit comments. Therefore, please submit any comments by August 26, 2020.

ADDRESSES: The public, Office of Management and Budget (OMB), and Congress may comment on this publication by writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, SSA, Room G–401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, or through the Federal e-Rulemaking Portal at *http://www.regulations.gov,* please reference docket number SSA–2015–0056. All comments we receive will be available for public inspection at the above address and we will post them to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Navdeep Sarai, Government Information Specialist, Privacy Implementation Division, Office of Privacy and Disclosure, Office of the General Counsel, SSA, Room G–401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, telephone: (410) 966–5855, email: *Navdeep.Sarai@ssa.gov.*

SUPPLEMENTARY INFORMATION: We are modifying the system manager section to include contact information per OMB Circular A–108, Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act. We are modifying the policies and practices for retention and disposal of records section to include the National Archives and Records Administration (NARA) General Records Schedule (GRS) 2.3 Employee Relations Records, Item 041, Anti-Harassment Complaint Case Files. We are modifying the policies and practices for retrieval of records section to include the names of alleging victims, which could be SSA employees, contractors, volunteers or others performing services for the agency as authorized by law, Harassment Prevention Officers (HPO), or Deciding Management Officials (DMO). We are modifying the purpose(s) of the system to clarify the scope of allegations covered by this system. We are revising routine use No. 4 and adding routine use No. 14, in

accordance with OMB Memorandum 17–12, Preparing for and Responding to a Breach of Personally Identifiable Information, which we previously published on November 11, 2018 at 83 FR 54969. Lastly, we are modifying this notice throughout to correct miscellaneous stylistic formatting and typographical errors of the previously published notice, and to ensure the language reads consistently across multiple systems. We are republishing the entire notice for ease of reference.

In accordance with 5 U.S.C. 552a(r), we provided a report to OMB and Congress on this new system of records.

Matthew Ramsey,

Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

SYSTEM NAME AND NUMBER:

Anti-Harassment & Hostile Work Environment Case Tracking and Records System, 60–0380.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Social Security Administration, Deputy Commissioner of Human Resources, Office of Labor Management and Employee Relations, 6401 Security Boulevard, Baltimore, MD 21235.

SYSTEM MANAGER(S):

Social Security Administration, Deputy Commissioner of Human Resources, Office of Labor Management and Employee Relations, 6401 Security Boulevard, Baltimore, MD 21235, 410–965–5855.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, *et seq.;* Age Discrimination in Employment Act of 1967, 29 U.S.C. 621, *et seq.;* The Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101, *et seq.;* The ADA Amendments Act of 2008; The Rehabilitation Act of 1973 (Section 501), 29 U.S.C. 791; The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107–174; Genetic Information Nondiscrimination Act of 2008 (GINA), Public Law 110–233; Executive Order 13087, Executive Order 13152, and further amendments to Executive Order 11478 and Executive Order 11246; and Equal Employment Opportunity Commission Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, Notice 915.002, V.C.1 (June 18, 1999).

PURPOSE(S) OF THE SYSTEM:

SSA takes seriously its obligation to maintain a work environment free from discrimination, including harassment. Managers and employees are responsible for preventing harassment from occurring and stopping harassment before it becomes severe or pervasive. The agency takes seriously all allegations of workplace harassment, and conducts prompt, thorough, and impartial investigations into allegations of harassment. The Anti-Harassment System captures and houses information regarding allegations of workplace harassment filed by SSA employees, contractors, or volunteers and others performing services for the agency as authorized by law alleging harassment by another SSA employee and any investigation and/or response taken as a result of the allegation. The Anti-Harassment System also captures and houses information regarding allegations of workplace harassment filed by SSA employees alleging harassment by SSA contractors, or volunteers and others performing services for the agency as authorized by law and any investigation and/or response taken as a result of the allegation. Other allegations between individuals covered by this system may be captured and housed on a case-by-case basis.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SSA employees, contractors, or volunteers and others performing services for the agency as authorized by law who report allegations of workplace harassment to the Office of Civil Rights and Equal Opportunity (OCREO) or to management; SSA employees, contractors, or volunteers and others performing services for the agency as authorized by law against whom allegations of workplace harassment have been reported to OCREO or to management; and SSA HPOs, investigators, and DMOs who conduct program business or inquiries relative to reports of alleged workplace harassment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system maintains information collected or generated in response to an allegation of workplace harassment, which may include allegations of workplace harassment; information generated during fact-finding investigations; and other records related to the investigation, and/or response taken as a result of the allegation.

RECORD SOURCE CATEGORIES:

We obtain information in this system from alleged victims and harassers, witnesses, members of the public, law enforcement officers of other Federal agencies, and other individuals involved with the allegation. Some information, such as the alleged victim's or harasser's name, personal identification number (PIN), employee identification number, position, and job location is pre-populated in the system by using information contained in our Human Resource Operational Data Store system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

We will disclose records pursuant to the following routine uses, however, we will not disclose any information defined as ''return or return information'' under 26 U.S.C. 6103 of the Internal Revenue Code, unless authorized by statute, the Internal Revenue Service (IRS), or IRS regulations.

1. To a congressional office in response to an inquiry from that office made on behalf of, and at the request of, the subject of the record or third party acting on the subject's behalf.

2. To the Department of Justice (DOJ), a court or other tribunal, or another party before such court or tribunal, when:

(a) SSA, or any component thereof; or

(b) any SSA employee in his or her official capacity; or

(c) any SSA employee in his or her individual capacity where DOJ (or SSA, where it is authorized to do so) has agreed to represent the employee; or

(d) the United States or any agency thereof where SSA determines the litigation is likely to affect SSA or any of its components, is a party to the litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court or other tribunal, or another party before the tribunal is relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosures of the records to DOJ, court or other tribunal, or another party is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

3. To the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906.

4. To appropriate agencies, entities, and persons when:

(a) SSA suspects or has confirmed that there has been a breach of the system of records;

(b) SSA has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, SSA (including its information systems, programs, and operations), the Federal Government, or national security; and

(c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connections with SSA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

5. To the Office of the President in response to an inquiry from that office made on behalf of, and at the request of, the subject of the record or a third party acting on the subject's behalf.

6. To contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We disclose information under this routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.

7. To student volunteers, individuals working under a personal services contract, and other workers who technically do not have the status of Federal employees when they are performing work for SSA, as authorized by law, and they need access to personally identifiable information (PII) in SSA records in order to perform their assigned agency functions.

8. To any agency, person, or entity in the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

9. To the alleged victim or harasser, or their representatives, the minimal information necessary to provide the status or the results of the investigation or case involving them.

10. To the Office of Personnel Management or the Merit Systems Protection Board (including the Office of Special Counsel) when information is requested in connection with appeals, special studies of the civil service and other merit systems, review of those agencies' rules and regulations, investigation of alleged or possible prohibited personnel practices, and for such other functions of these agencies as may be authorized by law, *e.g.,* 5 U.S.C. 1205 and 1206.

11. To the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discriminatory practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with Uniformed Guidelines on Employee Selection Procedures, or other functions vested in the Commission.

12. To officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting conditions of employment.

13. To Federal, State and local law enforcement agencies and private security contractors, as appropriate, information necessary:

(a) To enable them to protect the safety of SSA employees and customers, the security of the SSA workplace, the operation of SSA facilities, or

(b) to assist investigations or prosecutions with respect to activities that affect such safety and security or activities that disrupt the operations of SSA facilities.

14. To another Federal agency or Federal entity, when SSA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in:

(a) Responding to a suspected or confirmed breach; or

(b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

We will maintain records in this system in paper and electronic form.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

We will retrieve records by the name of the alleging victim (which could be SSA employees, contractors, or volunteers and others performing services for the agency as authorized by law), the name of the alleged harasser, the name of the HPO, the name of the DMO, and unique case identifiers.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

In accordance with NARA rules codified at 36 CFR 1225.16, we maintain records in accordance with the approved NARA GRS 2.3 Employee Relations Records, Item 041 Anti-Harassment Complaint Case Files. See *https://www.archives.gov/files/records-mgmt/grs/grs02-3.pdf.*

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

We retain electronic and paper files with personal identifiers in secure storage areas accessible only by our authorized employees and contractors who have a need for the information when performing their official duties. Security measures include the use of codes and profiles, PIN and password, and personal identification verification cards. We further restrict the electronic records by the use of the PIN for only those employees who are authorized to access the system. We keep paper records in locked cabinets within secure areas, with access limited to only those employees who have an official need for access in order to perform their duties.

We annually provide our employees and contractors with appropriate security awareness training that includes reminders about the need to protect PII and the criminal penalties that apply to unauthorized access to, or disclosure of, PII (*e.g.,* 5 U.S.C. 552a(i)(1)). Furthermore, employees and contractors with access to databases maintaining PII must sign a sanctions document annually, acknowledging their accountability for inappropriately accessing or disclosing such information.

RECORD ACCESS PROCEDURES:

Individuals may submit requests for information about whether this system contains a record about them by submitting a written request to the system manager at the above address, which includes their name, Social Security number (SSN), or other information that may be in this system of records that will identify them. Individuals requesting notification of, or access to, a record by mail must include (1) a notarized statement to us to verify their identity or (2) must certify in the request that they are the individual they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

Individuals requesting notification of, or access to, records in person must provide their name, SSN, or other information that may be in this system of records that will identify them, as well as provide an identity document, preferably with a photograph, such as a driver's license. Individuals lacking identification documents sufficient to establish their identity must certify in writing that they are the individual they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

These procedures are in accordance with our regulations at 20 CFR 401.40 and 401.45.

CONTESTING RECORD PROCEDURES:

Same as record access procedures. Individuals should also reasonably identify the record, specify the information they are contesting, and state the corrective action sought and the reason(s) for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate, or irrelevant. These procedures are in accordance with our regulations at 20 CFR 401.65(a).

NOTIFICATION PROCEDURES:

Same as record access procedures. These procedures are in accordance with our regulations at 20 CFR 401.40 and 401.45.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

This system of records has been exempted from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c), and (e) and have been published in the **Federal Register** (FR Doc. 2016–290335 Filed 12–1–16; 8:45 a.m.).

HISTORY:

81 FR 87119, Anti-Harassment & Hostile Work Environment Case Tracking and Records System; 83 FR 54969, Anti-Harassment & Hostile Work Environment Case Tracking and Records System.

[FR Doc. 2020–16143 Filed 7–24–20; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2019–0053]

Privacy Act of 1974; Matching Program

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a New Matching Program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a new matching program with the Department of Veterans Affairs (VA), Veterans Benefits Administrarion (VBA).

DATES: The deadline to submit comments on the proposed matching program is 30 days from the date of publication of this notice in the **Federal Register**. The matching program will be applicable on September 6, 2020, or once a minimum of 30 days after publication of this notice has elapsed, whichever is later. The matching program will be in effect for a period of 18 months.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869, writing to Matthew Ramsey, Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, G–401 WHR, 6401 Security Boulevard, Baltimore, MD 21235–6401, or emailing *Matthew.Ramsey@ssa.gov.* All comments received will be available for public inspection by contacting Mr. Ramsey at this street address.

FOR FURTHER INFORMATION CONTACT: Interested parties may submit general questions about the matching program to Andrea Huseth, Division Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, G–401 WHR, 6401 Security Boulevard, Baltimore, MD 21235–6401, at telephone: (410) 966–5855, or send an email to *Andrea.Huseth@ssa.gov.*

SUPPLEMENTARY INFORMATION: None.

Matthew Ramsey,

Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

PARTICIPATING AGENCIES:

SSA and VA VBA.

AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM:

The legal authority for this computer matching are sections 1144(a)(1) and (b)(1), and 1860D–14(a)(3) of the Social Security Act (42 U.S.C. 1320b–14(a)(1) and (b)(1), 1395w–114(a)(3)).

PURPOSE(S):

This matching program establishes the conditions under which the VA VBA will provide SSA with VA compensation and pension payment data. This disclosure will provide SSA with information necessary to verify an individual's self-certification of eligibility for the Medicare Prescription Drug (Medicare Part D) subsidy (Extra Help). It will also enable SSA to identify individuals who may qualify for Extra Help as part of the agency's Medicare outreach efforts.

CATEGORIES OF INDIVIDUALS:

The individuals whose information is involved in this matching program are those who are recorded in VA compensation and pension payment records and are matched with data in SSA's Medicare Database system of records. Such individuals have self-certified eligibility to SSA for the Medicare Prescription Drug (Medicare Part D) subsidy (Extra Help). In addition, SSA will use the information to identify individuals who may quality for Extra Help as part of the agency's Medicare outreach efforts.

CATEGORIES OF RECORDS:

VA's data file comes from compensation and pension payment data records. SSA matches VA data against Medicare Database (MDB) data.

SSA will conduct the match using the Social Security number, name, date of birth, and VA claim number on both the VA file and the MDB.

SYSTEM(S) OF RECORDS:

VA will provide compensation and pension payment data from its Systes of Records (SOR) entitled ''Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records-VA'' (58VA21/22/28), republished with updated name at 74 FR 14865 (April 1, 2009) and last amended at 77 FR 42593 (July 19, 2012).

SSA will match the VA data with SSA SOR ''Medicare Database File,'' 60–0321, last fully published at 71 FR 42159 (July 25, 2006) and amended at 72 FR 69723 (December 10, 2007) and 83 FR 54969 (November 1, 2018).

[FR Doc. 2020–16144 Filed 7–24–20; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 11144]

30-Day Notice of Proposed Information Collection: Affidavit Regarding a Change of Name

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to August 26, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Affidavit Regarding a Change of Name.
- *OMB Control Number:* 1405–0133.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Department of State, Bureau of Consular Affairs, Passport Services, Office of Program Management and Operational Support (CA/PPT/S/PMO/CR).
- *Form Number:* DS–60.
- *Respondents:* Individuals.
- *Estimated Number of Respondents:* 2,592.
- *Estimated Number of Responses:* 2,592.
- *Average Time Per Response:* 40 minutes.
- *Total Estimated Burden Time:* 1,728 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required to Obtain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Affidavit Regarding a Change of Name is submitted in conjunction with an application for a U.S. passport. It is used by Passport Services to collect information for the purpose of establishing that a passport applicant has adopted a new name without formal court proceedings or by marriage and has publicly and exclusively used the adopted name over a period of time (at least five years).

Methodology

When needed by an applicant for a passport, the Affidavit Regarding a Change of Name is either provided by the Department or downloaded from the Department's website at *eforms.state.gov* and completed by the affiant. It must be signed in the presence of a passport agent, passport acceptance agent, or notary public.

Zachary Parker,

Director.

[FR Doc. 2020–16145 Filed 7–24–20; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 11170]

Department of State FY 2018 & FY 2017 Service Contract Inventory

AGENCY: Department of State.

ACTION: Notice of release of the Department of State's FY 2018 & FY 2017 Service Contract Inventory.

SUMMARY: Acting in compliance with Section 743 of Division C of the Consolidated Appropriations Act of 2010, the Department of State is publishing this notice to advise the public of the availability of the FY 2018 & FY 2017 Service Contract Inventory. The FY 2018 Service Contract Inventory includes the FY 2018 Planned Analysis, and the FY 2017 Meaningful Analysis. The FY 2017 Service Contract Inventory includes the FY 2017 Planned Analysis, and the FY 2016 Meaningful Analysis. The inventory was developed in accordance with guidance issued by the Office of Management and Budget (OMB), Office of Federal Procurement Policy (OFPP).

DATES: The inventory is available on the Department's website as of July 14, 2020.

ADDRESSES: The Department of State has posted its FY 2018 & FY 2017 Service Contract Inventory at the following link: *https://csm.state.gov/index2.html.*

FOR FURTHER INFORMATION CONTACT: Marlon D. Henry, Management and Program Analyst, A/EX/CSM, 202–485–7210, *HenryMD@state.gov.*

Marlon D. Henry,

Management and Program Analyst, Bureau of Administration, Collaborative Strategy and Management Division, Department of State.

[FR Doc. 2020–16136 Filed 7–24–20; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent of Waiver With Respect to Land; Freeman Municipal Airport, Seymour, IN

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

ACTION: Notice.

SUMMARY: The FAA is considering a proposal to change 6.592 acres of airport land from aeronautical use to non-aeronautical use and to authorize the sale of airport property located at Freeman Municipal Airport, Seymour, IN. The aforementioned land is not needed for aeronautical use. The land is located in the northeast portion of the airport just east of Airport Access Road and north of the Runway 23 runway protection zone. This is vacant land and is proposed to be sold to the City of Seymour for the construction of Burkhart Boulevard.

DATES: Comments must be received on or before August 26, 2020.

ADDRESSES: Documents are available for review by appointment at the FAA Chicago Airports District Office, Victor Iniguez, Program Manager, 2300 East Devon Ave., Des Plaines, IL 60018 Telephone: (847) 294–7436/Fax: (847) 294–7046.

Written comments on the Sponsor's request must be delivered or mailed to: Victor Iniguez, Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Ave., Des Plaines, IL 60018, Telephone Number: (847) 294–7436/ FAX Number: (847) 294–7046.

FOR FURTHER INFORMATION CONTACT: Victor Iniguez, Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Ave., Des Plaines, IL. Telephone Number: (847) 294–7436/ FAX Number: (847) 294–7046.

SUPPLEMENTARY INFORMATION: In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

There is no current or future aeronautical need for the subject land. It is currently vacant land used for agricultural and open space. The land is surplus property from the U.S. Government that was transferred to the Seymour Aviation Commission (later to become the Seymour Municipal Airport Authority) on November 30, 1948. The proposed use of the land is for the construction of Burkhart Boulevard. The airport will receive fair market value for the sale of this land.

The disposition of proceeds from the sale of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the

Federal Register on February 16, 1999 (64 FR 7696).

This notice announces that the FAA is considering the release of the subject airport property at the Freeman Municipal Airport, Seymour, IN, from federal land covenants, subject to a reservation for continuing right of flight as well as restrictions on the released property as required in FAA Order 5190.6B section 22.16. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

Parcel 1

A part of the Northeast Quarter of the Northeast Quarter of Section 25, Township 6 North, Range 5 East, Jackson County, Indiana, and being that part of the grantor's land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked EXHIBIT ''B'', described as follows: Commencing at the Northeast corner of Section 25, Township 6 North, Range 5 East, on the North boundary line, thence South 88 degrees 40 minutes West on said section line for a distance of 217.1 feet to a point marked with an iron pin, thence South 0 degrees 49 minutes East for a distance of 344.3 feet (the foregoing portion of this description beginning with the words ''at the Northeast'' is quoted from Deed Record 93, page 405) to the centerline of G Avenue and to the point of beginning of this description, said point of beginning being a corner of a 2,234.25-acre tract of land described in Deed Record 93, page 405: Thence South 89 degrees 09 minutes 48 seconds West 140.83 feet along said centerline; thence North 2 degrees 22 minutes 06 seconds West 16.62 feet to point ''627'' designated on said plat; thence North 81 degrees 46 minutes 55 seconds East 54.18 feet to point ''626'' designated on said plat; thence North 88 degrees 37 minutes 01 second East 37.01 feet to point ''625'' designated on said plat; thence North 78 degrees 19 minutes 23 seconds East 51.61 feet to the west line of said 2,234.25-acre tract of land; thence South 0 degrees 34 minutes 44 seconds East 33.63 feet along the west line to the point of beginning and containing 0.078 acres, more or less, inclusive of the presently existing right of way, which contains 0.026 acres, more or less.

Parcel 1A

A part of the Northeast Quarter of the Northeast Quarter of Section 25, Township 6 North, Range 5 East, Jackson County, Indiana, and being that part of the grantor's land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked EXHIBIT ''B'', described as follows: Beginning at the northeast corner of said section, said northeast corner being designated as point ''10131'' on said plat; thence South 0 degrees 12 minutes 35 seconds East 344.46 feet along the east line of said section to the centerline of G Avenue; thence South 89 degrees 09 minutes 48 seconds West 214.87 feet along said centerline to a corner of a 2,234.25-acre tract of land described in Deed Record 93, page 405; thence North 0 degrees 34 minutes 44 seconds West 33.63 feet along the west line of said 2,234.25-acre tract of land; thence North 78 degrees 19 minutes 23 seconds East 138.44 feet to point ''624'' designated on said plat; thence North 36 degrees 03 minutes 13 seconds East 17.53 feet to point ''623'' designated on said plat; thence North 0 degrees 52 minutes 43 seconds West 173.01 feet to point ''622'' designated on said plat; thence North 3 degrees 40 minutes 01 second East 49.00 feet to the west boundary of Airport Road (First Avenue) at point ''621'' designated on said plat; thence North 0 degrees 30 minutes 40 seconds West 48.47 feet along the boundary of said Airport Road (First Avenue) to the north line of said section; thence North 88 degrees 47 minutes 57 seconds East 68.00 feet along said north line to the point of beginning and containing 0.710 acres, more or less, inclusive of the presently existing right of way, which contains 0.325 acres, more or less.

Parcel 24

A part of the Northwest Quarter of Section 30, Township 6 North, Range 6 East, Jackson County, Indiana, and being that part of the grantor's land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked EXHIBIT ''B'', described as follows: Beginning at a point on the west line of said section South 0 degrees 25 minutes 41 seconds East 399.12 feet from the northwest corner of said section, said point of beginning being the intersection of said west line with the prolonged south line of a 1.427-acre tract of land described in Deed Record 273, page 22; thence South 89 degrees 34 minutes 39 seconds East 63.37 feet along said prolonged south line and along the south line of said 1.427-acre tract of land; thence South 8 degrees 25 minutes 32 seconds East 43.76 feet to point ''617'' designated on said plat; thence South 28 degrees 45 minutes 04 seconds East 56.82 feet to point ''616'' designated on said plat; thence South 66 degrees 43 minutes 58 seconds East 98.68 feet to point ''615'' designated on said plat; thence North 88 degrees 02 minutes 46 seconds East 251.05 feet to point ''614'' designated on said plat; thence North 89 degrees 11 minutes 14 seconds East 128.83 feet to the east line of the grantor's land; thence South 0 degrees 45 minutes 05 seconds East 105.77 feet along said east line to the centerline of G Avenue; thence South 89 degrees 24 minutes 05 seconds West 568.05 feet along said centerline to the west line of said section; thence North 0 degrees 12 minutes 35 seconds West 233.86 feet along said west line to the point of beginning and containing 1.623 acres, more or less, inclusive of the presently existing right of way, which contains 0.192 acres, more or less.

Parcel 25

A part of Lot 1, in Freeman Municipal Airport Industrial Park, a subdivision in the West Half of Section 30, Township 6 North, Range 6 East, and the Southeast Quarter of Section 25, Township 6 North, Range 5 East, the plat of which is recorded in Plat Book 6, page 2, in the Office of the Recorder of Jackson County, Indiana, and being that part of the grantor's land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked EXHIBIT ''B'', described as follows: Beginning at the northwest corner of said lot; thence North 89 degrees 24 minutes 05 seconds East 231.44 feet along the north line of said lot to point ''512'' designated on said parcel plat; thence South 0 degrees 48 minutes 46 seconds East 15.75 feet to point ''511'' designated on said parcel plat; thence South 88 degrees 00 minutes 44 seconds West 78.01 feet to point ''510'' designated on said parcel plat; thence South 86 degrees 42 minutes 08 seconds West 146.21 feet to point ''509'' designated on said parcel plat; thence South 0 degrees 36 minutes 26 seconds East 229.00 feet to point ''508'' designated on said parcel plat; thence South 89 degrees 37 minutes 05 seconds West 7.505 feet to the west line of said lot at point ''507'' designated on said parcel plat; thence North 0 degrees 35 minutes 55 seconds West 253.50 feet along said west to the point of beginning and containing 0.144 acres, more or less.

Parcel 26

A part of Lot 4, in Freeman Municipal Airport Industrial Park, a subdivision in the West Half of Section 30, Township 6 North, Range 6 East, and the Southeast Quarter of Section 25, Township 6 North, Range 5 East, the plat of which is recorded in Plat Book 6, page 2, in the Office of the Recorder of Jackson County, Indiana, and being that part of

the grantor's land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked EXHIBIT ''B'', described as follows: Beginning at the northeast corner of said lot; thence South 0 degrees 35 minutes 55 seconds East 22.02 feet along the east line of said lot to point ''515'' designated on said parcel plat; thence Westerly 314.79 feet along an arc to the left and having a radius of 4,040.00 feet and subtended by a long chord having a bearing of North 88 degrees 20 minutes 08 seconds West and a length of 314.72 feet to the west line of said lot; thence North 0 degrees 35 minutes 55 seconds West 9.60 feet along said west line to the northwest corner of said lot; thence North 89 degrees 24 minutes 05 seconds East 314.47 feet along the north line of said lot to the point of beginning and containing 0.099 acres, more or less.

Parcel 27

A part of the Northeast Quarter of Section 30, Township 6 North, Range 6 East, Jackson County, Indiana, and being that part of the grantor's land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked EXHIBIT ''B'', described as follows: Beginning at a point on the east line of said section North 1 degree 21 minutes 22 seconds West 447.85 feet from the southeast corner of said quarter section, said southeast corner being designated as point ''10106'' on said plat; thence South 45 degrees 16 minutes 05 seconds West 124.67 feet; thence North 21 degree 06 minutes 34 seconds West 123.55 feet to point ''520'' designated on said plat; thence South 88 degrees 48 minutes 26 seconds West 69.02 feet to point ''519'' designated on said plat; thence Northwesterly 737.90 feet along an arc to the right and having a radius of 1,260.00 feet and subtended by a long chord having a bearing of North 74 degrees 24 minutes 57 seconds West and a length of 727.40 feet to the northwestern line of the grantor's land; thence North 45 degrees 17 minutes 57 seconds East 154.46 feet along said northwestern line; thence Southeasterly 615.46 feet along an arc to the left and having a radius of 1,110.00 feet and subtended by a long chord having a bearing of South 75 degrees 18 minutes 30 seconds East and a length of 607.61 feet to point ''610'' designated on said plat; thence North 88 degrees 48 minutes 26 seconds East 120.02 feet to point ''609'' designated on said plat; thence North 8 degrees 00 minutes 09 seconds East 139.41 feet to the south line of a 5.132-acre tract of land described in Miscellaneous Record Y, page 365; thence North 88 degrees 43 minutes 38 seconds East 58.28 feet along said south line and along the prolonged south line of said 5.132-acre tract to the east line of said section; thence South 1 degree 21 minutes 22 seconds East 317.98 feet along said east line to the point of beginning and containing 3.451 acres, more or less, inclusive of the presently existing right of way, which contains 0.181 acres, more or less.

Parcel 27A

A part of the Northeast Quarter of Section 30, Township 6 North, Range 6 East, Jackson County, Indiana, and being that part of the grantor's land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked EXHIBIT ''B'', described as follows: Beginning at a point on the east line of said section North 1 degree 21 minutes 22 seconds West 193.13 feet from the southeast corner of said quarter section, said southeast corner being designated as point ''10106'' on said plat; thence South 88 degrees 38 minutes 38 seconds West 29.90 feet to point ''521'' designated on said plat; thence North 21 degrees 06 minutes 34 seconds West 179.67 feet; thence North 45 degrees 16 minutes 05 seconds East 124.67 feet to the east line of said section; thence South 1 degree 21 minutes 22 seconds East 254.72 feet along said east line to the point of beginning and containing 0.323 acres, more or less, inclusive of the presently existing right of way, which contains 0.134 acres, more or less.

Parcel 28

A part of the Northeast Quarter of Section 30, Township 6 North, Range 6 East, Jackson County, Indiana, and being that part of the grantor's land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked EXHIBIT ''B'', described as follows: Beginning at a point on the east line of said section North 1 degree 21 minutes 22 seconds West 765.82 feet from the southeast corner of said quarter section, said southeast corner being designated as point ''10106'' on said plat, said point of beginning being the intersection of said east line with the prolonged south line of a 5.132-acre tract of land described in Miscellaneous Record Y, page 365; thence South 88 degrees 43 minutes 38 seconds West 58.28 feet along said prolonged south line and along the south line of said 5.132-acre tract of land; thence North 8 degrees 00 minutes 09 seconds East 174.54 feet to point ''608'' designated on said plat; thence North 88 degrees 38 minutes 38 seconds East 29.90 feet to the east line of said section; thence South 1 degree 21 minutes 22 seconds East 172.31 feet along said east line to the point of beginning and containing 0.174 acres, more or less, inclusive of the presently existing right of way, which contains 0.095 acres, more or less.

Issued in Des Plaines, IL on July 22, 2020.

Debra L Bartell,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2020–16231 Filed 7–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–1999–6254]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on July 15, 2020, the Santa Clara Valley Transportation Authority (SCVTA) petitioned the Federal Railroad Administration (FRA) to renew a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 214, 217, 219, 220, 221, 223, 225, 228, 229, 231, 233, 236, 238, and 239. FRA assigned the petition Docket Number FRA–1999–6254.

In its petition, SCVTA seeks to extend the terms and conditions of its shared use waiver, originally granted by FRA's Railroad Safety Board on September 26, 2005; modified in 2008; extended in 2011, 2013, 2018, and 2019. Specifically, SCVTA requests the following relief, for a period of five years: partial relief from part 220, Railroad Communications, for SCVTA employees, except its dispatchers; partial relief from part 225, Railroad Accidents/Incident Reports, only for employee injuries; and full relief from some parts of multiple regulations (*e.g.,* 49 CFR parts 217, 219, 221, 229, 238, and 239).

This shared use waiver is for the continued operation of the SCVTA rail fixed guideway transit system with the Union Pacific Railroad (UPRR) in the Vasona Corridor. SCVTA shares this corridor with UPRR, as they operate in parallel for 5 miles of the existing 15-mile-long UPRR Vasona Industrial Lead. It serves the cities of southwest San Jose and Campbell, California. Because SCVTA owns this 5-mile-long portion of the shared corridor, SCVTA and UPRR have executed an Operations and Maintenance Agreement, which includes an exclusive operating easement, allowing UPRR to fulfill its

obligations as a common carrier of freight by continuing its existing freight operations within the purchased corridor. This agreement requires SCVTA to inspect, maintain, and repair all tracks, signal systems, and automatic warning devices along the freight track within that portion of the corridor shared with SCVTA tracks.

SCVTA explains it has worked diligently with FRA to rectify compliance concerns found during the 2018–2019 waiver relief period, and seeks a full five-year extension of the regulations as previously granted in this docket.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by September 10, 2020 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety,Chief Safety Officer.

[FR Doc. 2020–16229 Filed 7–24–20; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2020–0056]

Program Approval: Canadian Pacific Railway Company

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of approval.

SUMMARY: FRA is issuing this notice to explain its rationale for approving a Canadian Pacific Railway Company (CP) petition for a Test Program designed to test track inspection technologies (*i.e.,* an autonomous track geometry measurement system) and new operational approaches to track inspections and its rationale for granting a limited, temporary suspension of a substantive FRA rule that is necessary to facilitate the conduct of the Test Program.

FOR FURTHER INFORMATION CONTACT: Yu-Jiang Zhang, Staff Director, Track and Structures Division, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 493–6460 or email *yujiang.zhang@dot.gov;* Aaron Moore, Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 493–7009 or email *aaron.moore@dot.gov.*

SUPPLEMENTARY INFORMATION: On July 2, 2020, CP petitioned FRA under title 49 Code of Federal Regulations (CFR) § 211.51 to suspend certain requirements of FRA's track safety regulations to conduct a program to test new track inspection technologies (*i.e.,* an autonomous track geometry measurement system) and new operational approaches to track inspections. CP also submitted a written Test Program providing a description of the proposed tests and the geographic scope of the testing territory.

The Test Program specifies that the tests will be conducted on approximately 480 miles of track on CP's corridor between St. Paul, Minnesota and Rondout, Illinois.

The Test Program is designed to test autonomous track geometry measurement systems and gradually decrease manual visual inspections as an alternative to FRA's inspection frequency requirements. CP indicates that it will continue to use other inspection technologies during the Test Program, including: (1) Vehicle Track Interaction monitoring systems; (2) ultrasonic rail inspection systems; and (3) optical joint bar inspection systems. The Test Program will be carried out in three separate phases over the course of 12 months, as detailed in Exhibit C of the Test Program (available for review at *www.regulations.gov* (docket number FRA–2020–0056)).

After review and analysis of CP's petition for a Test Program, subject to certain conditions designed to ensure safety, FRA approved CP's Test Program and suspended the requirements of 49 CFR 213.233(b)(3)[1] and (c) as necessary to carry out the Test Program. A copy of FRA's letter approving CP's Test Program and granting the requested limited temporary suspension of 49 CFR 213.233(b)(3) and (c), as well as a complete copy of the Test Program, is available in docket number FRA–2020–0056 at *www.regulations.gov.* FRA's letter approving CP's Test Program and granting the requested limited temporary suspension of certain regulations specifically details the conditions CP will need to undertake during the Test Program. As required by 49 CFR 211.51(c), FRA is providing this explanatory statement describing the Test Program.

As explained more fully in its approval letter, FRA finds that the temporary, limited suspension of 49 CFR 213.233(b)(3) and (c) is necessary to the conduct of the approved Test Program, which is specifically designed to evaluate the effectiveness of new automated track inspection technologies and operational methods. Furthermore, FRA also finds that the scope and application of the granted suspension of 49 CFR 213.233(b)(3) and (c) as applied to the Test Program are limited to that necessary to conduct the Test Program. Finally, FRA's approval letter outlines the conditions of the Test Program that will ensure standards sufficient to assure safety.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2020–16222 Filed 7–24–20; 8:45 am]

BILLING CODE 4910–06–P

[1] The suspension of 49 CFR 213.233(b)(3) only applies to Phase 3 of the Test Program.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2020–0047]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on June 12, 2020, the National Railroad Passenger Corporation (Amtrak) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 238, Passenger Equipment Safety Standards. FRA assigned the petition Docket Number FRA–2020–0047.

Amtrak requests relief from the requirements of 49 CFR 238.121, *Emergency communication,* for a new fleet of Viewliner II sleeping cars. Each new passenger car must be equipped with an intercom system at each half end of the car that provides a means for passengers and crewmembers to communicate by voice during an emergency. Amtrak's Viewliner II cars are configured with two passenger emergency intercoms (PEIs): one located in the hallway at the car's A-end and the other inside the Americans with Disabilities Act (ADA) bedroom at the car's B-end. Amtrak states that it believes this arrangement meets the requirements for a PEI at each end of the car. However, because the PEI on the B-end of the vehicle is located inside the ADA bedroom, which is not readily accessible to all passengers on that car end, the PEI is not compliant with the regulation.

Amtrak explains it is working with Ultra-Tech Enterprises, the current PEI vendor, to develop the scope of work and cost of installation of a fully accessible PEI in each car's B-end hallway. The modification will be made as the cars are delivered, and all cars are expected to be delivered and modified within two years.

However, Amtrak wishes to place the cars into service before the modification is complete, as waiting will shorten the warranty period of the vehicles, while still incurring costs to perform periodic maintenance and delay Amtrak the opportunity to offer a new product that may attract passengers during the current economic hardship. Until the modification is complete, Amtrak proposes to install signage that will inform passengers of the PEI locations.

Amtrak also states that the current cars' configuration is similar to the configuration of the Viewliner I equipment, which has operated safely without an emergency two-way communication device, as it was built before the current regulation went into effect.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by September 10, 2020 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2020–16228 Filed 7–24–20; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2020–0053]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on June 24, 2020, Berkshire Scenic Railway Museum (BCRY) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 240, Qualifications and Certification of Locomotive Engineers. FRA assigned the petition Docket Number FRA–2020–0053.

Specifically, BCRY seeks a waiver from the requirements of 49 CFR 240.201(d), *Implementation,* which states that a railroad can only permit qualified locomotive engineers to operate locomotives. BCRY seeks to operate a ''hand on the throttle'' charter program and offer non-certified individuals the opportunity to operate a diesel-electric locomotive under the direct supervision of a certified and qualified locomotive engineer. BCRY states the waiver would affect only persons who participate in the program and restrictions would be placed on this operation.

The waiver would cover operations on a 2-mile segment of other-than-main track between mile post (MP) 0.0 and MP 2.0. There are no public grade crossings or otherwise hazardous or unusual conditions on this segment of track.

Through a license agreement with the Massachusetts Department of Transportation (Mass DOT), BCRY utilizes 5 miles of the Adams Industrial Track to provide tourist service on weekends. BCRY's tourist operations on this track are at restricted speed, at a maximum of 15 miles per hour. Mass DOT also has a license agreement with Pan Am Railways (PAR) on this same track segment. PAR only operates on the Adam Industrial lead on Tuesday and Thursday between 0700 and 1700. BCRY must always coordinate with the PAR dispatcher and obtain permission prior to occupying the track between MP. 0.0 and MP 5.0 to ensure there are no PAR trains on this track segment.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. If any interested parties

desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by September 10, 2020 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2020–16227 Filed 7–24–20; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Tanker Agreement Program; Notice of Public Meeting

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: The Maritime Administration (MARAD) announces a public meeting for the purpose of developing the final text of the Voluntary Tanker Agreement (VTA). The public meeting will be held via teleconference and web conference. Teleconference and web conference access information will be provided once meeting participants register to attend as provided for in the **FOR FURTHER INFORMATION CONTACT** section below.

DATES: The public meeting via teleconference and web conference will take place on August 18, 2020 from 1:00 p.m. to 3:00 p.m. Eastern Daylight Time (EDT). Requests to participate must be received no later than 5:00 p.m. EDT on August 14, 2020. If you wish to speak during the meeting, you must submit a written copy of your remarks via email to *rhonda.davis@dot.gov* no later than August 14, 2020.

Attendees should register with MARAD by 12:00 p.m. on August 14, 2020 by providing their name, telephone number, email address, title, and organization to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below. Requests for accommodations for a disability must be received by August 14, 2020.

ADDRESSES: The meeting will be held via teleconference and web conference. Access information will be provided upon registration.

FOR FURTHER INFORMATION CONTACT: William G. McDonald, Director, Office of Sealift Support, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Office Telephone (202) 366–0688; Cell Phone (202) 570–0062, or *william.g.mcdonald@dot.gov.* Members of the public who wish to register, request accommodations for a disability, or speak during the teleconference, must contact Rhonda Davis at (202)-309–9775 or *rhonda.davis@dot.gov,* with their contact information and affiliations by the timelines in the **DATES** section above. Once the participant has registered, Ms. Davis will email the participant teleconference and web access information unless another form of MARAD response communication is requested at the time of registration (*e.g.* by telephone).

SUPPLEMENTARY INFORMATION:

I. Background

The Maritime Administration (MARAD) is developing a voluntary agreement necessary to renew the Voluntary Tanker Agreement Program, pursuant to the authority contained in Section 708 of the Defense Production Act of 1950 (DPA), as amended. Regulations governing Voluntary Tanker Agreements (VTAs) appear at 44 CFR part 332. The proposed agreement will revise and replace the VTA that was published in Volume 73 of the **Federal Register** at page 51692 (Sept. 4, 2008).

Because the proposed VTA will contain changes, both former and new participants must submit a new application once the final text is published. VTA applications are available from MARAD by contacting the persons listed in the **FOR FURTHER INFORMATION CONTACT** section above. The complete draft text of the proposed agreement was published in the **Federal Register** on November 1, 2019, 84 FR 58824–58829. Copies of the draft text are also available to the public upon request.

II. Agenda

The agenda will include: (1) Welcome, opening remarks, and introductions; (2) brief remarks by the Associate Administrator for Strategic Sealift or Director, Office of Sealift Support; (3) administrative items; (4) review of public docket comments; (5) oral participation from the public; and (6) closing remarks.

III. Public Participation

The meeting will be open to the public.

Public Comments: The public comment period at the meeting will commence at approximately 1:30 p.m. on August 18, 2020. To provide time for as many people to speak as possible, speaking time for each individual will be limited to five minutes. Speakers will be placed on the agenda in the order in which the notifications are received. If time allows, additional speakers will be permitted. Persons wishing to speak during public meeting should refer to the **DATES** section, above.

Written comments: Written comments should be submitted via email by August 14, 2020. See **FOR FURTHER INFORMATION CONTACT** section above. Also, MARAD is extending the period for the submission of written comments established in its **Federal Register** notice of November 1, 2019 (84 FR 58824) from December 2, 2019 to August 14, 2020. Comments submitted after the August 14, 2020 will be accepted as is practical. Written comments submitted after the meeting may be submitted as follows:

- *Federal eRulemaking Portal:* Go to *http://regulations.gov.* Search MARAD–2019–0183 and follow the instructions for submitting comments.
- *Mail:* The Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility address is: U.S.

Department of Transportation, MARAD–2019–0183, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590. Facility hours are 9:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays.

Services for Individuals with Disabilities: The U.S. Department of Transportation is committed to providing equal access to this teleconference 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 Rhonda Davis at *rhonda.davis@dot.gov.*

(Authority: 50 U.S.C. 4558, 49 CFR 1.93(l), 44 CFR 332)

Dated: July 22, 2020.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2020–16235 Filed 7–24–20; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Small Dollar Loan Program

ACTION: Notice and request for information.

SUMMARY: The Community Development Financial Institutions Fund (CDFI Fund), U.S. Department of the Treasury, is soliciting comments concerning the Small Dollar Loan Program (SDLP).

DATES: Written comments must be received on or before September 10, 2020 to be assured of consideration.

ADDRESSES: Submit your comments via email to Mia Sowell, Acting Program Manager, Small Dollar Loan Program, CDFI Fund, at *cdfihelp@cdfi.treas.gov* or Service Request (SR) in the Awards Management Information System (AMIS). For the SR, select ''Small Dollar Loan Program'' for the record type.

FOR FURTHER INFORMATION CONTACT: Mia Sowell, Acting Program Manager, Small Dollar Loan Program, CDFI Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, by phone at (202) 653–0300 or email to *cdfihelp@cdfi.treas.gov.*

SUPPLEMENTARY INFORMATION:

Title: Small Dollar Loan Program (SDLP)

Background: The SDLP is a new program, authorized by the Dodd-Frank Wall Street Reform and Consumer Protection Act, to be administered by the CDFI Fund. The CDFI Fund received $5 million for the SDLP under the Consolidated Appropriations Act, 2020 (Pub. L. 116–93). The first Notice for Funding Availability (NOFA) and Application are anticipated to be released in FY 2021. Eligible applicants, per the SDLP statute (12 U.S.C. 4719), will be limited to Certified Community Development Financial Institutions (CDFIs) and partnerships between such Certified CDFIs and any other Federally Insured Depository Institution with a primary mission to serve targeted Investment Areas. A ''Federally Insured Depository Institution'' means any insured depository institution as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

The purpose of the SDLP is to provide grants for Loan Loss Reserves (LLRs) and Technical Assistance (TA) to enable Certified CDFIs to establish and maintain small dollar loan programs. An applicant can request SDLP grants for LLRs, TA, or both. SDLP grants cannot be used to provide direct loans to consumers. The SDLP statute defines small dollar loans as those that do not exceed $2,500. This funding is intended to help Certified CDFIs address the issues of expanding consumer access to mainstream financial institutions and providing alternatives to high cost small dollar loans. It is also intended to help unbanked and underbanked populations build credit, access affordable capital, and allow greater access into the mainstream financial system.

It is anticipated that award Recipients with demonstrated track records of providing small dollar loan products may have two years to expend their award dollars and a two year Period of Performance, while those with a limited track record (or those who plan to establish a small dollar loan product shortly after receiving an award) may have three years to expend award dollars and a three year Period of Performance. Applicants should keep in mind there is a distinction between expending award funds and meeting all performance goals set forth in the Assistance Agreements during the Period of Performance. For LLR grants, it is anticipated that SDLP awards will be considered expended upon being allocated by the Recipient as loan loss reserves for an SDLP, after execution of the Assistance Agreement. However, Recipients must meet additional, to-be-determined performance goals, beyond just expending award dollars, during the Period of Performance that will be set forth in their Assistance Agreements. This RFI seeks input on performance goals.

The CDFI Fund will make SDLP awards to qualified Certified CDFIs based upon criteria to be set forth in a forthcoming NOFA and Application.

Type of Review: Regular

Affected Public: Businesses or other for-profit institutions, non-profit entities, and State, local, and Tribal entities participating in CDFI Fund programs.

Proposed Definitions of Key Terms: This section contains proposed definitions of key terms to assist in the review of this document and is not a comprehensive list of all defined terms relevant to the SDLP. Please see the SDLP statute (12 U.S.C. 4719) for other defined terms related to the SDLP.

(a) Federally Insured Depository Institution means any insured depository institution as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(b) Investment Area means as that term is defined in 12 CFR 1805.201(b)(3)(ii).

(c) Loan Loss Reserve (LLR) means funds set aside in the form of cash reserves, or through accounting-based accrual reserves, to cover losses on loans, accounts, and notes receivable or for related purposes that the CDFI Fund deems appropriate. SDLP grants can be used to establish LLRs in order to defray the costs of offering small dollar loan products.

(d) Small Dollar Loan Program means a loan program wherein a Certified CDFI or partnership offers loans to consumers that:

- Are made in amounts not exceeding $2,500;
- must be repaid in installments;
- have no pre-payment penalty;
- have payments reported to at least one of the three nationwide consumer reporting agencies; and
- meet any other affordability requirements as may be established by the CDFI Fund.

(e) Technical Assistance (TA) means technology, staff support, and other activities associated with establishing a small dollar loan program. SDLP grants can be used for TA costs.

Requests for Information: Prior to releasing the initial NOFA and Application for the SDLP, the CDFI Fund is seeking input from the public on various aspects of the SDLP through this Request for Information (RFI), to ensure that the program addresses the needs of Certified CDFIs to establish and maintain a small dollar loan program that maximizes benefits to their beneficiaries.

Through this RFI, the CDFI Fund seeks input from the public on certain aspects of the SDLP, as listed in

Sections I through IX. The CDFI Fund also seeks any additional information beyond these questions that members of the public believe would assist in developing the new SDLP. The CDFI Fund intends to consider the feedback received through this RFI as it develops the SDLP, including program criteria, award characteristics, application requirements, evaluation criteria, compliance and reporting, and other areas of input.

Commentators are encouraged to consider, at a minimum, the following topics:

I. SDLP Application

The SDLP Application will solicit information that will enable the CDFI Fund to evaluate an Applicant's eligibility to participate in the SDLP and ability to implement proposed activities for an SDLP award. It is anticipated that the Application will obtain information on the Applicant's financial health and capacity, track record (*e.g.,* offering small dollar loan products, or other products with similar risks, lending in low income/distressed communities, lending to low- and moderate-individuals, etc.), organization and management capacity, business plan, projected outcomes, and other information to be determined, including appropriate supporting documentation.

The CDFI Fund requests comments in response to the following general questions about a forthcoming Application for the SDLP:

A. *Consumer Need:* The CDFI Fund anticipates it will ask questions to assess consumer need and environment for small dollar loans in the Applicant's market.

1. What market characteristics of lenders and lending products should the CDFI Fund prioritize in order to maximize the impact of its SDLP awards, including both need and environment?

2. How should such characteristics be measured?

B. Track Record: It is anticipated that the Application will include questions related to the Applicant's track record (offering small dollar loan products or other products with similar risks, lending in low-income or distressed communities, lending to low-and moderate-income individuals, etc.). Further, the CDFI Fund understands that currently there are varying levels of participation by financial institutions that offer a small dollar loan product, which could be for a variety of reasons, including certain barriers to entry (*e.g.,* high transaction costs). Participation may range from no experience to limited experience, to multiple years of offering the product. As a result, separate questions in the application may be directed to those organizations that have a track record of offering the product and for those that do not.

1. What characteristics should determine whether an Applicant has a limited track record with small dollar loans? For example:

a. Less than ''x'' number of years of offering small dollar loans or similar type of loan product.

b. less than ''x'' percent of loan portfolio outstanding in small dollar loans or similar type of loan product.

c. less than ''x'' dollar of small dollar loans closed or similar type of loan product closed.

2. What questions should the CDFI Fund ask Applicants with no track record or limited track record with small dollar loans?

3. What questions should the CDFI Fund ask Applicants with a demonstrated track record with small dollar loans?

4. What questions should the CDFI Fund ask Applicants with a demonstrated track record with loans that have similar characteristics to small dollar loans as defined by the SDLP, but may not meet the definition of small dollar loans for the SDLP?

5. The CDFI Fund would like to gain a better understanding of diversity of experience with small dollar loan products. If you are a trade organization, what percentage of your membership currently offers a small dollar loan product? On average, how many years have your members offered this product?

C. Technical Assistance Strategy: The CDFI Fund will provide TA grants and/or LLR grants to Recipients through the SDLP awards. TA grants may be used for technology, staff support, and other costs associated with establishing a small dollar loan program. It is anticipated that the CDFI Fund will ask about an Applicant's TA strategy if the Applicant requests a TA grant through the SDLP.

1. What types of TA services do organizations need when developing a small dollar loan program?

2. What questions should the CDFI Fund ask Applicants to assess their TA strategy for implementing an SDLP award?

D. Other Application information: What data fields, questions or tables should be included in the Application to ensure collection of relevant information that supports the Applicant's track record, business strategy, or TA strategy?

II. Minimum and Maximum Award Sizes

The CDFI Fund has the discretion to set a minimum and maximum award amount to ensure award utility, and also to make funds available to multiple organizations that qualify for an award. The CDFI Fund is contemplating taking the following into consideration when setting the minimum and maximum award amounts: an organization's business plan regarding its ability to offer a small dollar loan product if it receives an award; demonstrated track record offering small dollar loan products, or other products with similar risks; activity type (*e.g.,* LLRs or TA); organizational capacity; length of time given to expend award dollars and meet all performance goals (*i.e.,* Period of Performance); etc.

1. If your organization already offers small dollar loans (or other products with similar risk), what percentage and dollar amount of the portfolio is reserved for LLRs for small dollar loans?

2. What other information or data should the CDFI Fund take into consideration when determining the minimum and maximum award amount for grants for LLRs and/or TA?

3. What should the CDFI Fund take into consideration when determining the minimum and maximum award amount for a Recipient with:

a. A demonstrated track record, if the reporting period is two years?

b. A limited track record (or plans to enter the small dollar loan line of business shortly after receiving an award) if the reporting period is three years?

III. Small Dollar Loan Characteristics, Policies, and Practices

The SDLP statute defines small dollar loans as those that do not exceed $2,500. The CDFI Fund is seeking additional input on small dollar loan characteristics. Per the statute, Recipients must report payments regarding the loan to at least one of the nationwide consumer reporting agencies that compiles and maintains files on consumers on a nationwide basis, and a purpose of the SDLP is to help give consumers access to mainstream financial institutions. What characteristics of a Recipient's small dollar loan program could help achieve this objective?

IV. Regulatory Requirements and Restrictions

The CDFI Fund is seeking input on how regulatory requirements, such as current expected credit losses (CECL), and restrictions may impact the SDLP.

For example, there is an expectation that adopting an unsecured small dollar loan product may result in increased LLRs, in part due to the higher historical loss rates associated with such portfolios. This may impact entities that are subject to the upcoming required CECL methodology. In addition, there may be other costs associated with adopting a new small dollar loan product, particularly if the CDFI does not have existing infrastructure or experience around similar loan products.

1. Is there an expectation the regulatory costs associated with implementing a small dollar loan product will vary widely depending upon the type of CDFI, asset size, anticipated product volume, loan terms, and intended customers? If so, how should this be addressed in the SDLP NOFA and Application?

2. Will the cost burden for those CDFIs with a previous track record of implementing a similar loan product vary considerably when compared to CDFIs developing a new small dollar loan product without prior experience? If so, how?

3. Is there an anticipation that the cost burden for implementing a new small dollar loan program will vary significantly between CDFIs of varying size and complexity? How should this be addressed in the SDLP NOFA and Application?

4. For those CDFIs that decide to implement a homogenous small dollar loan product (*e.g.,* standard rate, term, amount, etc.), is there an expectation this approach will result in lower regulatory and/or financial costs? If so, how? How should this be addressed in the SDLP NOFA and Application?

V. Financial Institution Type

Entities eligible to apply for an SDLP award may be either: (1) Certified CDFIs or (2) partnerships between such Certified CDFIs and any other Federally Insured Depository Institution with a primary mission to serve targeted Investment Areas. As a result, Applicants may represent a variety of organization types or a combination of organization types. It is anticipated that the Application will consist of questions related to the Applicant's track record (for example, offering small dollar loan products, or other products with similar risks, lending in low income/distressed communities, lending to low- and moderate-income individuals, etc.), organization and management capacity, business plan, and projected outcomes.

1. Are there specific topics that are unique to various organization types that the CDFI Fund should consider when drafting the application questions? (Yes/No).

2. If yes, please describe the topics that are unique to the following organization types, based on the information that could be provided in the Applicant's track record, business plan, projected outcomes, and management capacity:

a. Certified CDFI banks/thrifts.

b. Certified CDFI credit unions.

c. Certified CDFI cooperativas.

d. Certified CDFI unregulated loan funds.

e. Certified CDFI bank/thrift partnership with a non-CDFI Federally Insured Depository Institution.

f. Certified CDFI credit union partnership with a non-CDFI Federally Insured Depository Institution.

g. Certified CDFI unregulated loan fund partnership with a non-CDFI Federally Insured Depository Institution.

h. Certified CDFI cooperativa partnership with a non-CDFI Federally Insured Depository Institution.

VI. Community Partnerships

Per the SDLP statute, a Certified CDFI may partner with a Federally Insured Depository Institution (*e.g.,* bank/thrift) with a primary mission to serve targeted Investment Areas to apply for an SDLP award.

1. Please describe or provide examples of partnerships that may wish to apply for an SDLP award.

2. What are the benefits to end users if the Recipient of the SDLP award is a partnership?

3. What additional or specific criteria should the CDFI Fund use to evaluate Applicants that apply as a partnership?

4. Which responsibilities should be conducted solely by the CDFI entity and not the partner organization during the Period of Performance of the SDLP award?

5. How can the CDFI Fund determine if a non-CDFI partner has ''a primary mission to serve targeted Investment Areas?''

VII. Evaluation Criteria for Measuring Success

The CDFI Fund will evaluate the track record and outcomes to evaluate Applications and measure success (*e.g.,* outcomes and outputs) of SDLP Recipients. Small dollar loans offered by CDFIs are intended to serve as an alternative to high cost small dollar loan products. Some financial institutions have a demonstrated track record of providing a small dollar loan product for multiple years and have self-evaluated the outputs and outcomes of offering such a product.

1. Please describe some of the outcomes associated with offering a small dollar loan product. (An outcome measures the successes and achievements associated with the product.)

2. Please describe some of the outputs a financial institution and/or its stakeholders experience as a result of offering a small dollar loan product. (An output identifies the end result that occurred after the small dollar loan product was offered.)

3. Many financial institutions have not previously offered a small dollar loan product, or have a limited track record of doing so. Please describe some of the barriers to entry financial institutions may experience related to small dollar loan products.

VIII. Performance Goals, Compliance, and Reporting

The performance goals for SDLP award Recipients will: (1) Align with the purpose of the SDLP and (ii) establish accountability measures associated with the anticipated outcomes and outputs of an SDLP award. SDLP award Recipients will be expected to maintain compliance and reporting requirements that demonstrate successful achievement of the performance goals and will be set forth in the Assistance Agreement. The CDFI Fund would like to obtain input on certain aspects of the performance, compliance, and reporting requirements for the SDLP.

A. *Period of Performance:* The compliance and reporting period will be for a specified timeframe, or the Period of Performance (anticipated to be two to three years):

1. Should a SDLP Recipient with a limited track record (*e.g.,* those with less than two years of experience) be required to report on its use of the SDLP award for more than two years?

2. Are there additional factors the CDFI Fund should consider in determining the Period of Performance?

B. *Performance Goals:* Due to the revolving and short-term nature of small dollar loans, it is anticipated that Recipients will be able to demonstrate an increase in loans offered through its small dollar loan portfolio during the Period of Performance.

1. What is the minimum dollar volume of small dollar loans that an award recipient should be expected to make based on its award amount (for example, $10 of loan volume for every $1 of award)? Should this ratio vary based on the amount of award used for LLR vs. TA, and if so, why and how?

2. Are there other performance goal(s) the CDFI Fund should consider for

SDLP Recipients who commit to using their awards for:

a. Loan Loss Reserves?

b. Technical Assistance?

3. What units of measurements should be used in establishing performance goals for Recipients? For example, cumulative dollar amount of small dollar loans closed over the Period of Performance, growth in average size of small dollar loan portfolio outstanding over the Period of Performance, etc.

4. Should there be any differences in the reporting goals for award Recipients with limited track records versus established track records? If yes, please describe.

C. *Reporting Requirements for Recipients:*

1. Should SDLP recipients structure their loan systems to track usage of the SDLP at a loan level? Would this be a burden, and if so, in what way?

2. In addition to annual reporting, should the CDFI Fund require supplemental (*e.g.* quarterly, semi-annually, etc.) reporting for limited experience award Recipients?

IX. General

1. Are there any clarifications the CDFI Fund should consider providing to the Proposed Definitions of Key Terms?

2. Please describe potential unintended impacts (positive or negative) of SDLP awards on overall credit availability within underserved communities.

3. Is there any other information the CDFI Fund should consider in establishing this program?

Authority: 12 U.S.C. 4719.

Jodie L. Harris,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2020–16213 Filed 7–24–20; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Notice of Information Collection and Request for Public Comment

ACTION: Notice; extension of comment period.

SUMMARY: The Community Development Financial Institutions Fund (CDFI Fund), U.S. Department of the Treasury, is extending the public comment period concerning the Community Development Financial Institutions Program—Certification Application, which Applicants will submit through the CDFI Fund's Awards Management Information System (AMIS). The original **Federal Register** document announcing the comment period was published on May 7, 2020. With this extension, the comment period ends on November 5, 2020.

DATES: The public comment period for the document published on May 7, 2020 (85 FR 27275), is being extended. Written comments must be received on or before November 5, 2020.

ADDRESSES: Submit your comments via email to Tanya McInnis, Program Manager for the Office of Certification, Compliance Monitoring and Evaluation, CDFI Fund, at *ccme@cdfi.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Tanya McInnis, Program Manager for the Office of Certification, Compliance Monitoring and Evaluation, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Washington DC 20220 or by phone at (202) 653–0300. Other information regarding the CDFI Fund and its programs may be obtained through the CDFI Fund's website at *http://www.cdfifund.gov.*

SUPPLEMENTARY INFORMATION:

Title: Community Development Financial Institutions Program—Certification Application.

OMB Number: 1559–0028.

The Notice and Request for Public Comment for the Community Development Financial Institutions Program—Certification Application, was published in the **Federal Register** on May 7, 2020. The Notice provided a 90-day comment period that was set to close on August 5, 2020. In light of the challenges posed by the COVID–19 pandemic, and to ensure that stakeholders have the time they need to provide comments, the CDFI Fund determined that an extension of the comment period to November 5, 2020 is appropriate. The comment period will now close November 5, 2020.

Authority: 12 U.S.C. 4703, 4703 note, 4704, 4706, 4707, 4717; 12 CFR part 1805.

Jodie L. Harris,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2020–16196 Filed 7–24–20; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Agency Information Collection Activities; Proposed Collection: Comment Request; Extension of Comment Period; Annual Certification and Data Collection Report Form (ACR) and the Certification Transaction Level Report (CTLR)

ACTION: Notice; extension of comment period.

SUMMARY: The Community Development Financial Institutions Fund (CDFI Fund), U.S. Department of the Treasury, is extending the public comment period concerning the Annual Certification and Data Collection Report Form (ACR) and the Certification Transaction Level Report (CTLR). The original **Federal Register** document announcing the comment period was published on May 7, 2020. With this extension, the comment period ends on November 5, 2020.

DATES: The public comment period began on May 7, 2020 (85 FR 27274) and is being extended to November 5, 2020. Written comments must be received on or before November 5, 2020.

ADDRESSES: Submit your comments via email to Greg Bischak, Financial Strategies and Research (FS&R) Program Manager, CDFI Fund, at: *CDFI-FinancialStrategiesandResearch@cdfi.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Greg Bischak, Financial Strategies and Research (FS&R) Program Manager, CDFI Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220 or by phone at (202) 653–0300. Other information regarding the CDFI Fund and its programs may be obtained through the CDFI Fund's website at *http://www.cdfifund.gov.*

SUPPLEMENTARY INFORMATION:

Title: Annual Certification and Data Collection Report Form and the Certification Transaction Level Report.

OMB Number: 1559–0046.

The Notice and Request for Public Comment for the Annual Certification and Data Collection Report Form (ACR) and the Certification Transaction Level Report (CTLR) was published in the **Federal Register** on May 7, 2020. The Notice provided a 90-day comment period that was set to close on August 5, 2020. In light of the challenges posed by the COVID–19 pandemic, and to ensure that stakeholders have the time they need to provide comments, the

CDFI Fund determined that an extension of the comment period to November 5, 2020 is appropriate. The comment period will now close on November 5, 2020.

(Authority: Pub. L. 104–13; 12 CFR 1805; 12 CFR 1806; 12 CFR 1807; 12 CFR 1808)

Jodie L. Harris,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2020–16195 Filed 7–24–20; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans and Community Oversight and Engagement Board, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act (FACA) that the Veterans and Community Oversight and Engagement Board (the Board) will meet virtually. The meeting session will begin and end as follows:

Date	Time
August 13, 2020	3:00 p.m. to 6:00 p.m. EST

The meeting is open to the public. Members of the public can attend the meeting via teleconference (800) 767–1750 access code 80385#.

The Board was established by the West Los Angeles Leasing Act of 2016 on September 29, 2016. The purpose of the Board is to provide advice and make recommendations to the Secretary of Veterans Affairs on: identifying the goals of the community and Veteran partnership; improving services and outcomes for Veterans, members of the Armed Forces, and the families of such Veterans and members; and on the implementation of the Draft Master Plan approved by the Secretary on January 28, 2016, and on the creation and implementation of any successor master plans.

On August 13, the agenda will include opening remarks from the Committee Chair and the Chief Veterans Experience Officer. There will be a general update from VAGLAHS on COVID–19 response, Care, Treatment, and Rehabilitative Services (CTRS) Program, Enhanced Use Leases on campus, Purple Line negotiations, outreach efforts to engage Veterans camped out along San Vicente and status of Wadsworth Chapel Request for Proposal (RFP). The West Los Angeles Collective will provide a briefing on utility infrastructure and Building 207. The Board's subcommittees on Outreach and Community Engagement with Services and Outcomes, and Master Plan with Services and Outcomes will report on activities since the last meeting, followed by an out brief to the full Board on any draft recommendations considered for forwarding to the SECVA.

Individuals wishing to share information with the Committee should contact Mr. Chihung Szeto (Alternate Designated Federal Official) at *VEOFACA@va.gov* to submit a 1–2 page summary of their comments for inclusion in the official meeting record.

Any member of the public seeking additional information should contact Mr. Eugene W. Skinner Jr. at 202–631–7645 or at *Eugene.Skinner@va.gov.*

Dated: July 22, 2020.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2020–16224 Filed 7–24–20; 8:45 am]

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Monday, July 27, 2020

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CFR PARTS AFFECTED DURING JULY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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