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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0987; Product Identifier 2019–NM–144–AD; Amendment 39–19922; AD 2020–12–13]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This AD was prompted by reports that during airplane wing fatigue testing, fatigue cracks were found on the lower right-hand-side wing plank at the end of the integrally machined stringers, which led to a determination that new or more restrictive airworthiness limitations are necessary. This AD requires, for certain airplanes, revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 10, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 10, 2020.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0987.

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–2019–0987; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Aziz Ahmed, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2019–21, dated May 15, 2019 (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0987.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The NPRM published in the **Federal Register** on December 27, 2019 (84 FR 71335). The NPRM was prompted by reports that during airplane wing fatigue testing, fatigue cracks were found on the lower right-hand-side wing plank at the end of the integrally machined stringers, which led to a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to require, for certain airplanes, revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is issuing this AD to address undetected cracks on the lower wing plank at the stringer run-out, which could affect the structural integrity of the wing. See the MCAI for additional background information.

Comments

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

Request To Clarify Affected AD

Air Wisconsin Airlines stated that paragraph (b) of the proposed AD specifies the affected ADs as ''None,'' and that although AD 2016–17–15, Amendment 39–18628 (81 FR 59839, August 31, 2016) (''AD 2016–17–15''), may not be affected by the NPRM, it is associated with it. The FAA infers that Air Wisconsin Airlines is requesting clarification of AD 2016–17–15 as an affected AD and if it should be cited in paragraph (b) of the proposed AD.

The FAA agrees to clarify. The FAA acknowledges this AD affects AD 2016–17–15. ADs that are superseded or are terminated (or partially terminated) by an AD are listed in paragraph (b) of that AD. The FAA has added paragraph (j) to the AD to specify that accomplishing the revision required by paragraph (g) of this AD terminates the requirement to incorporate airworthiness limitations (AWL) task 57–21–112 in Part 6—Eddy Current, of Canadair Regional Jet CRJ200 Nondestructive Testing Manual, CSP A–010, Revision 40, dated November 10, 2018 (''AWL task 57–21–112''), as specified in paragraph (g)(12) of AD 2016–17–15. The FAA has also added AD 2016–17–15 to paragraph (b) of this AD.

Request To Revise a Certain Service Information Citation

Bombardier requested that the FAA revise the service information citation in paragraph (g) of the proposed AD for the

initial compliance time for AWL task 57–21–112. Bombardier stated that the maintenance review manual specifies the inspection intervals and not the nondestructive testing manual specified in paragraph (g) of the proposed AD.

The FAA agrees with the commenter for the reason provided by the commenter. The FAA has revised paragraph (g) of this AD to state that the initial compliance time for doing the task is at the at the next scheduled inspection as specified in AWL task 57–21–112, or within 30 days after the effective date of this AD, whichever occurs later.

Request To Provide Clarification to the NPRM

Air Wisconsin Airlines stated that it infers that the intent of paragraph (g) of the proposed AD is to incorporate the nondestructive testing (NDT) inspection introduced in Bombardier Canadair Regional Jet CRJ200 Nondestructive Testing Manual, CSP A–010, Revision 40, dated November 10, 2018 (''NDT Manual, Revision 40''), as AD 2016–17–15 already requires incorporation of AWL task 57–21–112 into an operator's maintenance program. Air Wisconsin Airlines stated that if it is required to use only NDT Manual, Revision 40, then it would suggest that an alternative method of compliance (AMOC) would be required for every revision issued after that to the NDT manual, as required by AD 2009–06–12, Amendment 39–15848 (74 FR 10457, March 11, 2009), for the fault isolation manual (FIM). Air Wisconsin Airlines asked if that is the intent of the NPRM, or is the intent of the NPRM as specified in the MCAI to prohibit the use of earlier revisions of the NDT manual. The FAA infers that Air Wisconsin Airlines is requesting the FAA clarify the intent of paragraph (g) of the NPRM.

The FAA agrees to clarify the intent of paragraph (g) of this AD. The intent is to prohibit the use of revisions prior to NDT Manual, Revision 40. The FAA revised the language in paragraph (g) of this AD to specify operators to ''revise the existing maintenance or inspection program, as applicable, to incorporate the information in AWL task 57–21–112, as specified in Part 6—Eddy Current, of Bombardier Canadair Regional Jet CRJ200 Nondestructive Testing Manual, CSP A–010, Revision 40, dated November 10, 2018.'' The revised language in paragraph (g) of this AD is designed to allow incorporating the specific information, regardless of the revision level of the NDT manual, in use, so long as the language is identical to the information in NDT Manual, Revision 40. Bombardier Canadair Regional Jet CRJ200 Nondestructive Testing Manual, CSP A–010, Revision 41, dated October 10, 2019, includes the same information that is specified in NDT Manual, Revision 40. If a revision of the NDT manual does not contain the same information for AWL task 57–21–112, as specified in NDT Manual, Revision 40, operators may request an AMOC using the procedures specified in paragraph (k)(1) of this AD.

Request To Incorporate a Certain Temporary Revision

Bombardier requested that paragraph (h) of the proposed AD state that the incorporation of Bombardier CL–600–2B19 Temporary Revision 2B–2273, dated October 31, 2019, to Appendix B—Airworthiness Limitations, Part 2 of the Bombardier CL–600–2B19 Maintenance Requirements Manual (''Temporary Revision 2B–2273''), into the next full manual revision also meets the requirements of paragraph (h) of the proposed AD.

The FAA agrees with the commenter that the next full manual revision that incorporates the information in Temporary Revision 2B–2273 will meet the requirements of paragraph (h) of this AD. The FAA has revised the language in paragraph (h) of this AD to specify that operators ''revise the existing maintenance or inspection program, as applicable, to incorporate the information in AWL task 57–21–169, as specified in Bombardier CL–600–2B19 Temporary Revision 2B–2273, dated October 31, 2019, to Appendix B—Airworthiness Limitations, of Part 2 of the Bombardier CL–600–2B19 Maintenance Requirements Manual.''

This revised language requires including the information that is provided in the referenced temporary revision. The revised language in paragraph (h) of this AD is designed to allow incorporating the specific information, regardless of the revision level of the NDT manual in use, so long as the information is identical to that in Temporary Revision 2B–2273.

Request To Clarify the Inspection Method

Air Wisconsin stated that paragraph (h) of the proposed AD specifies that the requirement is to incorporate AWL task 57–21–169, as specified in Temporary Revision 2B–2273 for which there is no existing inspection in the NDT manual. Air Wisconsin stated that Temporary Revision 2B–2273 does not indicate how to perform this inspection and that it only states to perform it, dependent upon maximum take-off weight (MTOW) if over the threshold from the last inspection per AWL task 57–21–112. Air Wisconsin commented that there needs to be a method of performing the inspection in the NDT manual, because AWL task 57–21–112 may have been incorporated into a maintenance program many years ago and inspections using the NDT Manual, Revision 40, may have been performed immediately after its publication. Air Wisconsin also commented that depending on utilization, there may be less than 100 cycles remaining before the inspection is required to be performed at the effective date of the AD, and therefore, there needs to be a better phase-in schedule than that shown in Temporary Revision 2B–2273, or an inspection method is required to be published sooner than later. The FAA infers that Air Wisconsin is requesting clarification for the inspection method.

The FAA agrees to clarify the inspection method. Temporary Revision 2B–2273 does provide an inspection method because it identifies the inspection type as a special detailed inspection and includes a reference to AWL task 57–21–169. The inspection method is available in the NDT manual.

Regarding the phase-in schedule, the FAA notes that paragraph (h) of this AD provides a 30-day grace period for the initial compliance time. Operators may also request an AMOC to extend the compliance time using the procedures specified in paragraph (k)(1) of this AD. The FAA has not changed this AD in this regard.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

Bombardier has issued Airworthiness Limitations task 57–21–112 to Part 6—Eddy Current, of Canadair Regional Jet CRJ200 Nondestructive Testing Manual, CSP A–010, Revision 40, dated November 10, 2018. This service information describes airworthiness

limitations for doing a special detailed inspection of the lower wing skin splice joints at buttock line (BL) 45.00, wing station (WS) 65.75, and WS148.00.

Bombardier has also issued CL–600–2B19 Temporary Revision 2B–2273, dated October 31, 2019, to Appendix B—Airworthiness Limitations, of Part 2 of the Bombardier CL–600–2B19 Maintenance Requirements Manual. This service information describes airworthiness limitations for doing an inspection for cracking on the lower wing plank at the stringer run-out.

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

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the FAA recognizes that this number may vary from operator to operator. In the past, the FAA has estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the FAA estimates the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

According to the manufacturer, some or all 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 known costs in the cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–12–13 Bombardier, Inc.: Amendment 39–19922; Docket No. FAA–2019–0987; Product Identifier 2019–NM–144–AD.

(a) Effective Date

This AD is effective September 10, 2020.

(b) Affected ADs

This AD affects AD 2016–17–15, Amendment 39–18628 (81 FR 59839, August 31, 2016) (''AD 2016–17–15'').

(c) Applicability

This AD applies to Bombardier, Inc., Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial number 7003 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by reports that during airplane wing fatigue testing, fatigue cracks were found on the lower right-hand-side wing plank at the end of the integrally machined stringers, which led to a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address undetected cracks on the lower wing plank at the stringer run-out, which could affect the structural integrity of the wing.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision for Task 57–21–112

For airplanes on which Bombardier Service Bulletin 601R–57–044 has not been done: Within 30 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information in airworthiness limitations (AWL) task 57–21–112, as specified in Part 6—Eddy Current, of Bombardier Canadair Regional Jet CRJ200 Nondestructive Testing Manual, CSP A–010, Revision 40, dated November 10, 2018. The initial compliance time for doing the task is at the next scheduled inspection as specified in AWL task 57–21–112, or within 30 days after the effective date of this AD, whichever occurs later.

(h) Maintenance or Inspection Program Revision for Task 57–21–169

For airplanes on which Bombardier Service Bulletin 601R–57–044 has been done: Within 30 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information in AWL task 57–21–169, as specified in Bombardier CL–600–2B19 Temporary Revision 2B–2273, dated October 31, 2019, to Appendix B—Airworthiness Limitations, of Part 2 of the Bombardier CL–600–2B19 Maintenance Requirements Manual. The initial compliance time for doing the task is at the time specified in Bombardier CL–600–2B19 Temporary Revision 2B–2273, dated October 31, 2019, to Appendix B—Airworthiness Limitations, of Part 2 of the Bombardier CL–600–2B19 Maintenance Requirements Manual, or within 30 days after the effective date of this AD, whichever occurs later.

(i) No Alternative Actions or Intervals

After the existing maintenance or inspection program has been revised as required by paragraphs (g) and (h) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k)(1) of this AD.

(j) Terminating Action for a Certain Requirement of AD 2016–17–15.

Accomplishing the revision required by paragraph (g) of this AD terminates the requirement to incorporate AWL 57–21–112

as specified in paragraph (g)(12) of AD 2016–17–15.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2019–21, dated May 15, 2019, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0987.

(2) For more information about this AD, contact Aziz Ahmed, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

(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 this AD specifies otherwise.

(i) Airworthiness Limitations task 57–21–112 to Part 6—Eddy Current, of Bombardier Canadair Regional Jet CRJ200 Nondestructive Testing Manual, CSP A–010, Revision 40, dated November 10, 2018.

(ii) Bombardier CL–600–2B19 Temporary Revision 2B–2273, dated October 31, 2019, to Appendix B—Airworthiness Limitations, of Part 2 of the Bombardier CL–600–2B19 Maintenance Requirements Manual.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.*

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

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

Issued on June 19, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–17124 Filed 8–5–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0600; Product Identifier 2019–CE–043–AD; Amendment 39–21154; AD 2020–13–09]

RIN 2120–AA64

Airworthiness Directives; DG Flugzeugbau GmbH Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all DG Flugzeugbau GmbH Models DG–500 Elan Orion, DG–500 Elan Trainer, DG–500/20 Elan, DG–500/22 Elan, DG–500M, and DG–500MB gliders and certain Models DG–1000S and DG–1000T gliders. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the rear locking rod of the rear canopy rotating out of the threads of the operating mechanism, which could lead to blocking of the canopy emergency release system, preventing safe escape of occupants from the glider. The FAA is issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective August 26, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of August 26, 2020.

The FAA must receive comments on this AD by September 21, 2020.

ADDRESSES: You may send comments by any of the following methods:

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

For the DG Flugzeugbau GmbH service information and Repair Instruction RI–DG–05 identified in this AD, contact DG-Flugzeugbau GmbH, Otto Lilienthal Weg 2, D–76646, Bruchsal, Germany, telephone: +49 (0) 7251 3020–0, fax: +49 (0) 7251 3020–200; email: *dirks@dgflugzeugbau.de;* internet: *https://www.dg-flugzeugbau.de/en/.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0600.

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–2020–0600; 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 regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No. 2019–0237R1, dated September 24, 2019, (referred to after this as ''the MCAI''), to correct an unsafe condition for DG Flugzeugbau GmbH Models DG–500 Elan Orion, DG–500 Elan Trainer, DG–500/20 Elan, DG–500/22 Elan, DG–500M and DG–500MB, and certain Models DG–1000S and DG–1000T gliders. The MCAI states:

Occurrences have been reported where the rear locking rod of the rear canopy rotated out of the threads of the operating mechanism. Due to the similarity in design, the front canopy locking mechanism may also be affected.

This condition, if not detected and corrected, could lead to blocking of the canopy emergency release system, possibly preventing safe escape of the occupant(s) from the (powered) sailplane in case of an in-flight emergency.

To address this unsafe condition, DG-Flugzeugbau published the TN [DG-Flugzeugbau GmbH Technical Note TN1000/42 and TN500/13] and the RI [Repair Instruction RI–DG–05] to provide inspection and repair instructions.

For the reason described above, this [EASA] AD requires repetitive inspections of the front and rear canopy to determine if the end of the rear locking rod protrudes over the canopy frame contour, and annual checks of the front and rear canopy rear locking rods to determine that they are screwed in tightly, and, depending on findings, repair of the canopy rear locking rods. This [EASA] AD also requires amendment of the applicable Aircraft Flight Manual (AFM).

This [EASA] AD is revised to remove the references to the TN instruction paragraphs, which have changed with TN issue 01.b. The revised TN issues were added to the list of reference publications.

You may examine the MCAI on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0600.

Related Service Information Under 1 CFR Part 51

The FAA reviewed DG Flugzeugbau GmbH Technical Note No. 1000/42, Document No. TM1000–42 FE–29–01, Issue 01.b, dated September 11, 2019; and Technical Note TN500/13, Document No. TM1000–42 FE–29–01, Issue 01.b, dated September 11, 2019; which are co-published as one document. The service information contains procedures for inspecting the rear locking rods on both the front and rear canopy for rod protrusion.

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 Repair Instruction RI–DG–05, dated August 15, 2019. The service information is referenced in DG Flugzeugbau GmbH Technical Note No. 1000/42, Document No. TM1000–42 FE–29–01, Issue 01.b, dated September 11, 2019; and Technical Note TN500/13, Document No. TM1000–42 FE–29–01, Issue 01.b, dated September 11, 2019; and contains procedures for repairing the rear locking rods of the canopy lock.

FAA's Determination and Requirements of the AD

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

Differences Between This AD and the MCAI

The MCAI requires a daily inspection of the front and rear canopy, and this AD does not.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because the FAA has determined that the required corrective actions must be accomplished before further flight. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reason stated above, it finds that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not precede it by notice and opportunity for public comment. The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0600; Product Identifier 2019–CE–043–AD'' at the beginning of your comments. The FAA will consider all comments received by the closing date and may amend this AD because of those comments.

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

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 AD 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 AD, 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 AD. Submissions containing CBI should be sent to Jim Rutherford, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Costs of Compliance

The FAA estimates that this AD will affect 47 products of U.S. registry. The FAA also estimates that it would take 1.5 work-hours per product to inspect the canopy rear locking rods. In addition, the FAA estimates that it would take 0.5 work-hour per product to revise the aircraft flight manual. The average labor rate is $85 per work-hour.

Based on these figures, the FAA estimates the annual cost of this AD on U.S. operators to be $7,990, or $170 per product.

In addition, the FAA estimates that any necessary follow-on repairs to the canopy rear locking rods will take 8 work-hours and require parts costing $200, for a cost of $880 per product. The

FAA has no way of determining the number of products that may need these actions.

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 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 FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–13–09 DG Flugzeugbau GmbH: Amendment 39–21154; Docket No. FAA–2020–0600; Product Identifier 2019–CE–043–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective August 26, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to DG Flugzeugbau GmbH Models DG–500 Elan Orion, DG–500 Elan Trainer, DG–500/20 Elan, DG–500/22 Elan, DG–500M, and DG–500MB gliders, all serial numbers; and DG–1000S and DG–1000T gliders, serial numbers up to and including 10–144; certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 44: Cabin Systems.

(e) Reason

This AD was prompted by the rear locking rod of the rear canopy rotating out of the threads of the operating mechanism. Due to the similarity in design, the front canopy locking mechanism may also be affected. The FAA is issuing this AD to repetitively inspect the front and rear canopy locking rods, and make repairs as necessary, to prevent blocking of the canopy emergency release system, which could affect the evacuation of occupants from the glider in an emergency.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Before further flight after August 26, 2020 (the effective date of this AD), revise the flight manual for your glider by inserting the flight manual pages listed in Instruction 5 of DG Flugzeugbau GmbH Technical Note (TN) No. 1000/42, Document No. TM1000–42 FE–29–01, Issue 01.b, dated September 11, 2019, and TN No. 500/13, Document No. TM1000–42 FE–29–01, Issue 01.b, dated September 11, 2019, which are co-published as one document (TM1000–42 FE–29–01). This action may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9 (a)(1) through (4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(2) Before further flight after August 26, 2020 (the effective date of this AD), and thereafter at each annual inspection, inspect the rear locking rods of the front and rear canopy and repair any discrepancies by following Instructions 1 through 3 in TM1000–42 FE–29–01.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Small Airplane Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any glider to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(h) Related Information

Refer to MCAI European Union Aviation Safety Agency AD No. 2019–0237R1, dated September 24, 2019. You may examine the MCAI on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0600.

(i) 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) DG Flugzeugbau GmbH Technical Note No. 1000/42 Document No. TM1000–42 FE–29–01, Issue 01.b, dated September 11, 2019.

(ii) DG Flugzeugbau GmbH Technical Note No. TN500/13, Document No. TM1000–42 FE–29–01, Issue 01.b, dated September 11, 2019.

Note 1 to paragraph (i)(2) of this AD: DG Flugzeugbau GmbH Technical Note No. 1000/42 Document No. TM1000–42 FE–29–01, Issue 01.b, dated September 11, 2019; and DG Flugzeugbau GmbH Technical Note No. TN500/13, Document No. TM1000–42 FE–29–01, Issue 01.b, dated September 11, 2019, are co-published as one document.

(3) For the DG Flugzeugbau GmbH service information and Repair Instruction RI–DG–05 identified in this AD, contact DG-Flugzeugbau GmbH, Otto Lilienthal Weg 2, D–76646, Bruchsal, Germany, telephone: +49 (0) 7251 3020–0, fax: +49 (0) 7251 3020–200; email: *dirks@dgflugzeugbau.de;* internet: *https://www.dg-flugzeugbau.de/en/.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0600.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA,

email: *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on June 19, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–17043 Filed 8–5–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–1056; Product Identifier 2018–SW–047–AD; Amendment 39–21193; AD 2020–16–09]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters (Type Certificate Previously Held by Eurocopter France) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2009–25–09 for Eurocopter France (now Airbus Helicopters) Model SA330F, G, and J helicopters. AD 2009–25–09 required re-adjusting the torque of the main gearbox (MGB) flexible coupling bolts. Since the FAA issued AD 2009–25–09, Airbus Helicopters has modified the MGB overhaul and repair procedures, which corrects the unsafe condition. Additionally, the FAA-validation for Model SA330F and G helicopters has been cancelled. This new AD retains the requirements of AD 2009–25–09 and revises the applicability by excluding Model SA330F and G helicopters and excludes MGBs that have been subject to the modified procedures. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD is effective September 10, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 10, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of December 29, 2009 (74 FR 66045 December 14, 2009).

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 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–2019–1056.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* in Docket No. FAA–2019–1056; 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: James Blyn, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *james.blyn@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to remove AD 2009–25–09, Amendment 39–16128 (74 FR 66045, December 14, 2009) (''AD 2009–25–09'') and add a new AD. AD 2009–25–09 applied to Eurocopter France (now Airbus Helicopters) Model SA330F, G, and J helicopters. The NPRM published in the **Federal Register** on December 20, 2019 (84 FR 70076). AD 2009–25–09 was prompted by EASA AD No. 2008–0049–E, dated March 3, 2008 and corrected March 7, 2008 (EASA AD 2008–0049–E), to correct an unsafe condition on Model SA 330 F, G, and J helicopters. The NPRM proposed to retain the attachment hardware torque verification and re-adjustment requirements of AD 2009–25–09, and would revise the applicability paragraph by excluding Model SA330F and G helicopters and by excluding input flexible coupling flange assemblies that have been installed in an MGB that has been overhauled after April 1, 2015.

The NPRM was prompted by EASA AD No. 2008–0049R1, dated December 18, 2015 (EASA AD 2008–0049R1), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters Model SA 330 J helicopters. EASA advises that since EASA AD 2008–0049–E was issued, Airbus Helicopters has improved its procedures for assembling the flexible coupling-to-flanges during MGB overhaul and maintenance of individual flexible couplings. EASA further states that the improved maintenance procedures ensure the correct torqueing of the attachment bolts of the flexible couplings. Because of these improved procedures, EASA AD 2008–0049R1 states that installing a coupling-to-flange assembly that has been subject to improved maintenance procedures after April 1, 2015, is an acceptable method to comply with the requirements of that AD. The FAA agrees with EASA's determination and therefore proposed to change AD 2009–25–09 accordingly.

Comments

The FAA gave the public the opportunity to participate in developing this AD, but did not receive any comments on the NPRM.

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 these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Eurocopter Emergency Alert Service Bulletin No. 05.95, dated March 3, 2008, and Airbus Helicopters Emergency Alert Service Bulletin No. 05.95, Revision 1, dated October 22, 2015, which specify procedures for readjusting or checking the tightening torque load of the hardware attaching the flexible coupling to the sliding coupling flange and the bolts attaching the flexible coupling to the fixed coupling flange. Revision 1 of this service information excludes from its applicability certain flexible coupling assemblies that have undergone the improved procedures.

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.

Differences Between This AD and the Service Information

The service information requires contacting the manufacturer depending on the results of an inspection, but this AD does not.

Costs of Compliance

The FAA estimates that this AD affects 16 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Re-adjusting the tightening torque on the flexible coupling-to-flange attachment bolts takes about 8 work-hours for an estimated cost of $680 per helicopter and $10,880 for the U.S. fleet.

For MGB input flexible coupling flange assemblies with more than 75 hours time-in-service, inspecting the tightening torque load on the flexible coupling-to-flange attachment bolts takes about 10 work-hours for an estimated cost of $850 per helicopter.

If required, replacing a damaged flexible coupling takes about 1 work-hour in addition to those required for disassembling and inspecting the flexible coupling flange assembly and parts cost about $2,046 for an estimated cost of $2,131 per helicopter.

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:

■ a. Removing Airworthiness Directive (AD) 2009–25–09, Amendment 39–16128 (74 FR 66045, December 14, 2009); and

■ b. Adding the following new AD:

2020–16–09 Airbus Helicopters (Type Certificate Previously Held by Eurocopter France): Amendment 39–21193; Docket No. FAA–2019–1056; Product Identifier 2018–SW–047–AD.

(a) Applicability

This AD applies to Airbus Helicopters (previously Eurocopter France) Model SA330J helicopters, certificated in any category, with a main gearbox (MGB) input flexible coupling flange assembly part number 330A–32937401 installed, that has been modified per MOD 0752416 and MOD 0752419, excluding:

(1) Assemblies that have been subject to a maintenance scheduled inspection per Working Card 65.32.601 since new or since a complete overhaul of the MGB; and

(2) Assemblies installed on an MGB that has undergone complete overhaul after April 1, 2015, and that have not been replaced since the complete overhaul of the MGB.

(b) Unsafe Condition

This AD defines the unsafe condition as progressive fatigue failure of the coupling discs, caused by excessive fretting on the faces and in the bolt holes of the coupling discs. This condition, if not corrected, could result in loss of the MGB input, loss of the drive transmission, and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD replaces AD 2009–25–09, Amendment 39–16128 (74 FR 66045, December 14, 2009).

(d) Effective Date

This AD becomes effective September 10, 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

(1) For MGB input flexible coupling flange assemblies with less than 50 hours time-in-service (TIS) since new or since a complete overhaul of the MGB, re-adjust the tightening torque load of the 6 nuts on the flexible coupling-to-flange attachment bolts. Accomplish this re-adjustment between 50 hours TIS and 75 hours TIS since new or since a complete overhaul of the MGB in accordance with paragraph 2.B.2.a. of Eurocopter Emergency Alert Service Bulletin No. 05.95, dated March 3, 2008 (EASB 05.95) or Airbus Helicopters Emergency Alert Service Bulletin No. 05.95, Revision 1, dated October 22, 2015 (EASB 05.95 Rev 1).

(2) For MGB input flexible coupling flange assemblies with 50 hours TIS and 75 or less hours TIS since new or since a complete overhaul of the MGB, either:

(i) Upon or before reaching 75 hours TIS since new or since a complete overhaul of the MGB, re-adjust the tightening torque load of the 6 nuts on the flexible coupling-to-flange attachment bolts in accordance with paragraph 2.B.2.a. of EASB 05.95 or EASB 05.95 Rev 1; or

(ii) Upon or before reaching 125 hours TIS since new or since a complete overhaul of the MGB, inspect the tightening torque load of the 6 nuts on the flexible coupling-to-flange attachment bolts in accordance with paragraph 2.B.2.b. of EASB 05.95 or EASB 05.95 Rev 1, except you are not required to contact the manufacturer.

(3) For MGB input flexible coupling flange assemblies that have more than 75 hours TIS since new or since a complete overhaul of the MGB, within the next 50 hours TIS, inspect the tightening torque load of the 6 nuts on the flexible coupling-to-flange attachment bolts, in accordance with paragraph 2.B.2.b. of EASB 05.95 Rev 1, except you are not required to contact the manufacturer.

(4) Prior to installing an MGB that contains an input flexible coupling flange assembly that has been modified per MOD 0752416 and MOD 0752419, you must comply with the provisions of this AD.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: James Blyn, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA,

10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, the FAA suggests that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(h) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD No. 2008–0049R1, dated December 18, 2015. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2019–1056.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6310, Engine Transmission Coupling.

(j) 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.

(3) The following service information was approved for IBR on September 10, 2020.

(i) Airbus Helicopters Emergency Alert Service Bulletin No. 05.95, Revision 1, dated October 22, 2015.

(ii) [Reserved]

(4) The following service information was approved for IBR on December 29, 2009 (74 FR 66045, December 14, 2009).

(i) Eurocopter Emergency Alert Service Bulletin No. 05.95, dated March 3, 2008.

(ii) [Reserved]

(5) 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.*

(6) 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.

(7) 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 23, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–17164 Filed 8–5–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31323 Amdt. No. 3915]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective August 6, 2020. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 6, 2020.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29, Room 104, Oklahoma City, OK 73169. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26,1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on July 24, 2020.

Wade E.K. Terrell,

Manager, Flight Procedures & Airspace Group.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 10 September 2020

Aniak, AK, Aniak, ILS OR LOC RWY 11, Amdt 1
Aniak, AK, Aniak, RNAV (GPS) RWY 11, Amdt 2
Point Hope, AK, Point Hope, NDB RWY 1, Amdt 2C, CANCELLED
Point Hope, AK, Point Hope, NDB RWY 19, Amdt 2C, CANCELLED
Haleyville, AL, Posey Field, VOR/DME RWY 18, Amdt 5C, CANCELLED
Prattville, AL, Prattville—Grouby Field, VOR/DME–A, Amdt 3C, CANCELLED
Tuskegee, AL, Moton Field Muni, VOR–A, Amdt 4B, CANCELLED
Wetumpka, AL, Wetumpka Muni, VOR–A, Amdt 2A, CANCELLED
Dumas, AR, Billy Free Muni, VOR/DME RWY 36, Amdt 3B, CANCELLED
Mena, AR, Mena Intermountain Muni, NDB RWY 27. Amdt 1B, CANCELLED
Chandler, AZ, Stellar Airpark, VOR–A, Amdt 1C
Grand Canyon, AZ, Valle, VOR/DME RWY 19, Orig-A, CANCELLED
Long Beach, CA, Long Beach/Daugherty Field, Takeoff Minimums and Obstacle DP, Amdt 6B
Modesto, CA, Modesto City-Co-Harry Sham FLD, VOR RWY 28R, Amdt 1, CANCELLED
Paso Robles, CA, Paso Robles Muni, RNAV (GPS) RWY 19, Amdt 2
Paso Robles, CA, Paso Robles Muni, RNAV (GPS) RWY 31, Amdt 1
Sacramento, CA Sacramento Mather, VOR RWY 4R, Orig-F, CANCELLED
Santa Rosa, CA, Charles M. Schulz—Sonoma County, VOR/DME RWY 14, Amdt 3B, CANCELLED
Pensacola, FL, Pensacola Intl, NDB RWY 35, Orig-A, CANCELLED
Cedartown, GA, Polk County Airport—Cornelius Moore Field, VOR–A, Amdt 13, CANCELLED
Dawson, GA, Dawson Muni, VOR RWY 32, Orig-D, CANCELLED
Lawrenceville, GA, Gwinnett County—Briscoe Field, VOR RWY 7, Amdt 2B, CANCELLED
Albia, IA, Albia Muni, VOR–A, Amdt 4A, CANCELLED
Winterset, IA, Winterset Muni, VOR/DME–A, Amdt 3, CANCELLED
Lewiston, ID, Lewiston-Nez Perce County, VOR RWY 8, Amdt 6, CANCELLED
Chicago, IL, Chicago O'Hare Intl, RNAV (GPS) RWY 4L, Amdt 2A, CANCELLED
Effingham, IL, Effingham County Memorial, VOR RWY 1, Amdt 10D, CANCELLED
Lake In The Hills, IL, Lake In The Hills, VOR–A, Orig, CANCELLED
Marion, IL, Veterans Airport Of Southern Illinois, NDB RWY 20, Amdt 10D, CANCELLED
Marion, IL, Veterans Airport Of Southern Illinois, VOR RWY 20, Amdt 17D, CANCELLED
Peoria, IL, Mount Hawley Auxiliary, VOR–A, Orig-B, CANCELLED
Michigan City, IN, Michigan City Muni-Phillips Field, VOR–A, Amdt 6, CANCELLED
Terre Haute, IN, Sky King, VOR–A, Amdt 7, CANCELLED
Atwood, KS, Atwood-Rawlins County City-County, RNAV (GPS) RWY 17, Amdt 1
Atwood, KS, Atwood-Rawlins County City-County, Takeoff Minimums and Obstacle DP, Orig-A
Burlington, KS, Coffey County, NDB RWY 36, Amdt 2A, CANCELLED
Junction City, KS, Freeman Field, NDB–B, Amdt 5B, CANCELLED
Wichita, KS, Colonel James Jabara, VOR–A, Amdt 4A, CANCELLED
Eunice, LA, Eunice, NDB RWY 16, Amdt 1A, CANCELLED
Eunice, LA, Eunice, VOR/DME–A, Amdt 3A, CANCELLED
Augusta, ME, Augusta State, VOR/DME–A, Amdt 12, CANCELLED
Adrian, MI, Lenawee County, NDB RWY 5, Orig-A, CANCELLED
Clare, MI, Clare Muni, VOR–A, Amdt 2A, CANCELLED
Greenville, MI, Greenville Muni, VOR–A, Amdt 3, CANCELLED
Cloquet, MN, Cloquet Carlton County, NDB RWY 18, Amdt 4B
Cloquet, MN, Cloquet Carlton County, NDB RWY 36, Amdt 5B
Cloquet, MN, Cloquet Carlton County, RNAV (GPS) RWY 18, Orig-B
Cloquet, MN, Cloquet Carlton County, RNAV (GPS) RWY 36, Amdt 1B
Cloquet, MN, Cloquet Carlton County, Takeoff Minimums and Obstacle DP, Amdt 3
Waseca, MN, Waseca Muni, VOR–A, Amdt 5, CANCELLED
Excelsior Springs, MO, Excelsior Springs Memorial, VOR–A, Orig, CANCELLED
Malden, MO, Malden Rgnl, VOR RWY 32, Amdt 9, CANCELLED
St Louis, MO, St Louis Lambert Intl, RNAV (RNP) Z RWY 30L, Amdt 1A

St Louis, MO, Creve Coeur, VOR–A, Amdt 5A, CANCELLED
Brookhaven, MS, Brookhaven-Lincoln County, VOR/DME–A, Amdt 9A, CANCELLED
Atkinson, NE, Stuart-Atkinson Muni, VOR/DME RWY 29, Amdt 1A, CANCELLED
David City, NE, David City Muni, VOR/DME RWY 32, Amdt 1A, CANCELLED
Minden, NE, Pioneer Village Field, VOR–A, Amdt 1, CANCELLED
Norfolk, NE, Norfolk Rgnl/Karl Stefan Memorial Fld, ILS OR LOC RWY 2, Amdt 6A
Norfolk, NE, Norfolk Rgnl/Karl Stefan Memorial Fld, RNAV (GPS) RWY 2, Amdt 2
Norfolk, NE, Norfolk Rgnl/Karl Stefan Memorial Fld, RNAV (GPS) RWY 14, Amdt 2
Norfolk, NE, Norfolk Rgnl/Karl Stefan Memorial Fld, RNAV (GPS) RWY 20, Amdt 2
Norfolk, NE, Norfolk Rgnl/Karl Stefan Memorial Fld, RNAV (GPS) RWY 32, Amdt 2
Norfolk, NE, Norfolk Rgnl/Karl Stefan Memorial Fld, Takeoff Minimums and Obstacle DP, Amdt 1
Norfolk, NE, Norfolk Rgnl/Karl Stefan Memorial Fld, VOR RWY 14, Amdt 8
Norfolk, NE, Norfolk Rgnl/Karl Stefan Memorial Fld, VOR RWY 19, Amdt 8A, CANCELLED
Norfolk, NE, Norfolk Rgnl/Karl Stefan Memorial Fld, VOR RWY 32, Amdt 8
Nashua, NH, Boire Field, VOR RWY 32, Orig-A, CANCELLED
Nashua, NH, Boire Field, VOR–A, Amdt 12A, CANCELLED
Blairstown, NJ, Blairstown, VOR RWY 25, Amdt 2A, CANCELLED
Manville, NJ, Central Jersey Rgnl, VOR–A, Amdt 7B, CANCELLED
Ocean City, NJ, Ocean City Muni, VOR–A, Orig-C, CANCELLED
Gallup, NM, Gallup Muni, VOR RWY 6, Amdt 8B
Silver City, NM, Grant County, LOC RWY 26, Amdt 5D
Silver City, NM, Grant County, RNAV (GPS) RWY 26, Orig-C
Tucumcari, NM, Tucumcari Muni, VOR RWY 26, Amdt 6A, CANCELLED
Cortland, NY, Cortland County-Chase Field, RNAV (GPS) RWY 6, Amdt 1
Cortland, NY, Cortland County-Chase Field, RNAV (GPS) RWY 24, Amdt 2
Montauk, NY, Montauk, VOR RWY 6, Amdt 4, CANCELLED
Monticello, NY, Sullivan County Intl, VOR RWY 33, Amdt 4, CANCELLED
Ashland, OH, Ashland County, VOR–A, Amdt 9D, CANCELLED
Middlefield, OH, Geauga County, VOR–A, Amdt 6, CANCELLED
Ada, OK, Ada Rgnl, Takeoff Minimums and Obstacle DP, Amdt 4A
Bristow, OK, Jones Memorial, RNAV (GPS) RWY 18, Amdt 2
Bristow, OK, Jones Memorial, RNAV (GPS) RWY 36, Amdt 2
Bristow, OK, Jones Memorial, Takeoff Minimums and Obstacle DP, Amdt 5
Goldsby, OK, David Jay Perry, VOR RWY 31, Amdt 2A, CANCELLED
Madill, OK, Madill Muni, VOR/DME–A, Amdt 3A, CANCELLED
Lakeview, OR, Lake County, VOR/DME–A, Orig-A, CANCELLED
Redmond, OR, Roberts Field, RNAV (GPS) Y RWY 5, Amdt 3A
Sunriver, OR, Sunriver, VOR RWY 18, Amdt 1D, CANCELLED
Grove City, PA, Grove City, VOR–A, Amdt 7A, CANCELLED
Greenville, SC, Donaldson Center, NDB RWY 5, Amdt 6A, CANCELLED
Dayton, TN, Mark Anton, NDB RWY 3, Amdt 2A, CANCELLED
Nashville, TN, Nashville Intl, VOR RWY 13, Amdt 13E, CANCELLED
Alpine, TX, Alpine-Casparis Muni, NDB RWY 19, Amdt 5D, CANCELLED
El Paso, TX, El Paso Intl, ILS OR LOC RWY 22, Amdt 32E
El Paso, TX, El Paso Intl, RNAV (GPS) Y RWY 22, Orig-F
El Paso, TX, El Paso Intl, RNAV (RNP) Z RWY 22, Amdt 1B
Fort Stockton, TX, Fort Stockton-Pecos County, VOR/DME RWY 30, Orig-B, CANCELLED
La Grange, TX, Fayette Regional Air Center, VOR/DME–A, Amdt 1B, CANCELLED
Muleshoe, TX, Muleshoe Municipal, VOR/DME–A, Amdt 1A, CANCELLED
Brookneal, VA, Brookneal/Campbell County, VOR–A, Amdt 2A, CANCELLED
Norfolk, VA, Hampton Roads Executive, ILS OR LOC RWY 10, Orig-A
Deer Park, WA, Deer Park, NDB–A, Amdt 2C, CANCELLED
Ephrata, WA, Ephrata Muni, VOR/DME RWY 3, Amdt 4, CANCELLED
New Holstein, WI, New Holstein Muni, VOR/DME–A, Amdt 2, CANCELLED
Moundsville, WV, Marshall County, VOR/DME–A, Amdt 2C, CANCELLED

RESCINDED: On July 13, 2020 (85 FR 41912), the FAA published an Amendment in Docket No. 31319 Amdt No. 3911, to Part 97 of the Federal Aviation Regulations under sections 97.33. The following Entry for Thief River Falls, MN, effective September 10, 2020, is hereby rescinded in its entirety:

Thief River Falls, MN, Thief River Falls Rgnl, RNAV (GPS) RWY 4, Orig-A

[FR Doc. 2020–17203 Filed 8–5–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31324; Amdt. No. 3916

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective August 6, 2020. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 6, 2020.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001;
2. The FAA Air Traffic Organization Service Area in which the affected airport is located;
3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. 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.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures

and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29, Room 104, Oklahoma City, OK 73169. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs.

The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/ Permanent Notice to Airmen (P-NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on JULY 24, 2020.

Wade E.K. Terrell,

Manager, Flight Procedures & Airspace Group.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/ DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
10–Sep–20	GA	Hampton	Henry County Airport	0/0636	7/16/20	RNAV (GPS) RWY 6, Amdt 2.
10–Sep–20	GA	Hampton	Henry County Airport	0/0649	7/16/20	RNAV (GPS) RWY 24, Amdt 2.
10–Sep–20	WI	Appleton	Appleton Intl	0/0947	7/16/20	RNAV (GPS) RWY 21, Amdt 2C.
10–Sep–20	TX	Big Spring	Big Spring McMahon-Wrinkle	0/2187	7/20/20	VOR/DME RWY 17, Amdt 8.
10–Sep–20	TX	Big Spring	Big Spring McMahon-Wrinkle	0/2188	7/20/20	VOR/DME RWY 35, Amdt 8.
10–Sep–20	TX	Pleasanton	Pleasanton Muni	0/2240	7/20/20	RNAV (GPS) RWY 34, Orig-A.
10–Sep–20	TX	Lubbock	Lubbock Preston Smith Intl	0/2285	7/21/20	VOR–A, Amdt 6C.
10–Sep–20	TX	Lubbock	Lubbock Preston Smith Intl	0/2286	7/21/20	VOR/DME OR TACAN RWY 26, Amdt 11A.
10–Sep–20	NC	Lincolnton	Lincolnton-Lincoln County Rgnl	0/2310	7/21/20	ILS Y OR LOC Y RWY 23, Orig-B.
10–Sep–20	NC	Lincolnton	Lincolnton-Lincoln County Rgnl	0/2311	7/21/20	ILS Z OR LOC Z RWY 23, Orig-B.
10–Sep–20	NC	Lincolnton	Lincolnton-Lincoln County Rgnl	0/2312	7/21/20	RNAV (GPS) RWY 23, Amdt 1A.
10–Sep–20	NC	Lincolnton	Lincolnton-Lincoln County Rgnl	0/2313	7/21/20	RNAV (GPS) RWY 5, Amdt 1C.
10–Sep–20	IN	Indianapolis	Indianapolis Intl	0/2531	7/21/20	ILS OR LOC RWY 5L, ILS RWY 5L (CAT II & III), Amdt 5.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
10–Sep–20	AK	St Paul Island	St Paul Island	0/2698	7/21/20	RNAV (GPS) RWY 36, Amdt 1A.
10–Sep–20	AK	St Paul Island	St Paul Island	0/2699	7/21/20	LOC/DME BC RWY 18, Amdt 4C.
10–Sep–20	AK	St Paul Island	St Paul Island	0/2700	7/21/20	RNAV (GPS) RWY 18, Amdt 2C.
10–Sep–20	PA	St Marys	St Marys Muni	0/2951	7/17/20	RNAV (GPS) RWY 10, Amdt 1A.
10–Sep–20	CA	Lodi	Lodi	0/4959	7/1/20	RNAV (GPS)–B, Orig-B.
10–Sep–20	TX	San Angelo	San Angelo Rgnl/Mathis Field	0/5361	7/2/20	VOR RWY 21, Amdt 17.
10–Sep–20	TX	San Angelo	San Angelo Rgnl/Mathis Field	0/5362	7/2/20	VOR/DME OR TACAN RWY 3, Orig-B.
10–Sep–20	MA	Great Barrington	Walter J Koladza	0/6280	7/6/20	RNAV (GPS) RWY 11, Orig-C.
10–Sep–20	TN	Knoxville	McGhee Tyson	0/6289	7/9/20	VOR RWY 23L, Amdt 5
10–Sep–20	FL	St Petersburg-Clearwater.	St Pete-Clearwater Intl	0/6601	7/9/20	ILS OR LOC RWY 36, Orig.
10–Sep–20	TX	Lubbock	Lubbock Preston Smith Intl	0/6727	7/7/20	LOC BC RWY 35L, Amdt 19A.
10–Sep–20	NJ	Sussex	Sussex	0/7157	7/9/20	RNAV (GPS) RWY 3, Orig-B.
10–Sep–20	NJ	Sussex	Sussex	0/7158	7/9/20	VOR–A, Amdt 6A.
10–Sep–20	ID	Bonners Ferry	Boundary County	0/7159	7/8/20	RNAV (GPS) RWY 2, Orig-E.
10–Sep–20	KS	Smith Center	Smith Center Muni	0/7190	7/10/20	RNAV (GPS) RWY 32, Orig-A.
10–Sep–20	KS	Smith Center	Smith Center Muni	0/7193	7/10/20	RNAV (GPS) RWY 14, Orig-A.
10–Sep–20	TX	Amarillo	Rick Husband Amarillo Intl	0/7211	7/8/20	LDA/DME RWY 22, Amdt 1A.
10–Sep–20	TX	Amarillo	Rick Husband Amarillo Intl	0/7237	7/8/20	ILS OR LOC RWY 4, Amdt 22E.
10–Sep–20	TX	Amarillo	Rick Husband Amarillo Intl	0/7238	7/8/20	RNAV (GPS) Y RWY 22, Amdt 1.
10–Sep–20	TX	Amarillo	Rick Husband Amarillo Intl	0/7239	7/8/20	RNAV (GPS) Y RWY 13, Amdt 1.
10–Sep–20	TX	Amarillo	Rick Husband Amarillo Intl	0/7240	7/8/20	RNAV (GPS) Y RWY 4, Amdt 1A.
10–Sep–20	TX	Del Rio	Del Rio Intl	0/7528	7/10/20	VOR–A, Amdt 1.
10–Sep–20	WA	Pasco	Tri-Cities	0/7535	7/10/20	RNAV (RNP) Z RWY 3L, Amdt 1.
10–Sep–20	WA	Pasco	Tri-Cities	0/7536	7/10/20	RNAV (GPS) Y RWY 3L, Amdt 2.
10–Sep–20	GA	Savannah	Savannah/Hilton Head Intl	0/7572	7/9/20	RNAV (GPS) RWY 1, Amdt 2A.
10–Sep–20	GA	Savannah	Savannah/Hilton Head Intl	0/7573	7/9/20	RNAV (GPS) RWY 10, Amdt 2A.
10–Sep–20	GA	Savannah	Savannah/Hilton Head Intl	0/7574	7/9/20	RNAV (GPS) RWY 19, Amdt 2.
10–Sep–20	GA	Savannah	Savannah/Hilton Head Intl	0/7575	7/9/20	RNAV (GPS) Z RWY 28, Amdt 2B.
10–Sep–20	GA	Savannah	Savannah/Hilton Head Intl	0/7576	7/9/20	VOR/DME–A, Orig-A.
10–Sep–20	GA	Savannah	Savannah/Hilton Head Intl	0/7582	7/9/20	VOR/DME OR TACAN RWY 1, Orig-D.
10–Sep–20	GA	Savannah	Savannah/Hilton Head Intl	0/7583	7/9/20	VOR/DME OR TACAN RWY 19, Orig-A.
10–Sep–20	GA	Cordele	Crisp County-Cordele	0/8028	7/15/20	RNAV (GPS) RWY 6, Amdt 1.
10–Sep–20	GA	Cordele	Crisp County-Cordele	0/8029	7/15/20	RNAV (GPS) RWY 10, Amdt 1.
10–Sep–20	GA	Cordele	Crisp County-Cordele	0/8030	7/15/20	RNAV (GPS) RWY 28, Amdt 1.
10–Sep–20	GA	Cordele	Crisp County-Cordele	0/8031	7/15/20	RNAV (GPS) RWY 24, Amdt 1.
10–Sep–20	AR	Hope	Hope Muni	0/8142	7/13/20	RNAV (GPS) RWY 16, Orig-B.
10–Sep–20	ME	Eliot	Littlebrook Air Park	0/8172	7/15/20	RNAV (GPS) RWY 30, Orig.
10–Sep–20	AR	Little Rock	Bill And Hillary Clinton National/Adams Field.	0/8236	7/13/20	ILS OR LOC RWY 4R, Amdt 2E.
10–Sep–20	TN	Chattanooga	Lovell Field	0/8862	7/13/20	ILS OR LOC RWY 2, Amdt 7D.
10–Sep–20	AL	Huntsville	Huntsville Executive Tom Sharp Jr Field.	0/8960	7/15/20	RNAV (GPS) RWY 36, Amdt 1B.
10–Sep–20	TX	Ozona	Ozona Muni	0/9014	7/14/20	RNAV (GPS) RWY 16, Orig.
10–Sep–20	NY	New York	Laguardia	0/9462	7/9/20	ILS OR LOC RWY 13, Amdt 2A.
10–Sep–20	NY	New York	Laguardia	0/9463	7/9/20	LOC RWY 31, Amdt 3C.
10–Sep–20	NY	New York	Laguardia	0/9464	7/9/20	ILS OR LOC RWY 4, Amdt 37B.
10–Sep–20	NY	New York	Laguardia	0/9465	7/9/20	LDA–A, Amdt 2E.
10–Sep–20	NY	New York	Laguardia	0/9466	7/9/20	VOR RWY 4, Amdt 3D.
10–Sep–20	NY	New York	Laguardia	0/9467	7/9/20	ILS OR LOC RWY 22, ILS RWY 22 (SA CAT I AND II), Amdt 21B.
10–Sep–20	NY	New York	Laguardia	0/9468	7/9/20	RNAV (GPS)–B, Orig-B.
10–Sep–20	NY	New York	Laguardia	0/9469	7/9/20	RNAV (GPS) Y RWY 4, Amdt 3B.
10–Sep–20	NY	New York	Laguardia	0/9470	7/9/20	RNAV (GPS) Y RWY 22, Amdt 2E.
10–Sep–20	NY	New York	Laguardia	0/9471	7/9/20	RNAV (GPS) Y RWY 31, Orig.
10–Sep–20	NY	New York	Laguardia	0/9473	7/9/20	RNAV (GPS) Z RWY 31, Amdt 1F.
10–Sep–20	NY	New York	Laguardia	0/9474	7/9/20	RNAV (GPS) RWY 13, Amdt 1.
10–Sep–20	ND	Valley City	Barnes County Muni	0/9953	7/16/20	Takeoff Minimums and Obstacle DP, Orig.

[FR Doc. 2020–17204 Filed 8–5–20; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2020–0032]

RIN 1625–AA00

Safety Zone; Tropical Storm Isaias, Coast Guard Maryland-National Capital Region Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters within the Coast Guard Maryland-National Capital Region Captain of the Port Zone. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the possible landfall of Tropical Storm Isaias. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Maryland-National Capital Region or a designated representative.

DATES: This rule is effective without actual notice from August 6, 2020 until 11:59 p.m. on August 9, 2020, unless terminated sooner by the Captain of the Port Maryland-National Capital Region. For the purposes of enforcement, actual notice will be used from 12:01 a.m. on August 4, 2020 until August 6, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2020–0032 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. Ron Houck, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. Immediate action is required by the Coast Guard due to the potential safety hazards vessels in these waterways present to life, property and the environment during a tropical storm. We must establish this safety zone by August 4, 2020, to ensure that the rule is in place in advance of Tropical Storm Isaias.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to restrict vessel traffic to protect life, property and the environment and respond to the potential safety hazards associated with the nature and path of Tropical Storm Isaias.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). Tropical Storm Isaias continues to track toward the mid-Atlantic region, with a most probable path inclusive of the Chesapeake Bay, Maryland. The COTP Maryland-National Capital Region has determined that potential hazards associated with the destructive force associated with a tropical storm necessitates establishment of a temporary safety zone to protect the safety of life and property on navigable waters starting August 4, 2020, will be a safety concern for anyone within the COTP Maryland-National Capital Region Zone. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the weather event.

IV. Discussion of the Rule

This rule establishes a safety zone from 12:01 a.m. on August 4, 2020, until 11:59 p.m. on August 9, 2020, unless sooner terminated by the Captain of the Port Maryland-National Capital Region. The safety zone will cover all navigable waters within the COTP Maryland-National Capital Region Zone, as described in 33 CFR 3.25–15. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters due to the expected impact of Tropical Storm Isaias. Except for vessels already at berth, mooring, or anchor, all vessels underway within this safety zone at the time it is implemented are to depart the zone. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. To seek permission to enter, vessels and persons may contact the COTP or the COTP's representative by telephone number 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the duration of the safety zone. The effect of this regulation will not be significant due to the limited time that will be regulated (less than a week) and that vessel traffic will be allowed to transit through the zone once the tropical storm has passed, when it

has been determined safe to do so, and with the permission of the COTP Maryland-National Capital Region. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will prohibit entry within the COTP Maryland-National Capital Region Zone for six days, as described in 33 CFR 3.25–15, due to the expected impact of Tropical Storm Isaias. It is categorically excluded from further review under paragraph L60(c) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0032 to read as follows:

§ 165.T05–0032 Safety Zone; Tropical Storm Isaias, Coast Guard Maryland-National Capital Region Captain of the Port Zone.

(a) *Location.* The following area is a safety zone: All navigable waters of the Coast Guard Captain of the Port Maryland-National Capital Region Zone, as described in 33 CFR 3.25–1.

(b) *Definitions.* As used in this section—

Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing the safety zone described in paragraph (a) of this section.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) Except for vessels already at berth, mooring, or anchor, all vessels underway within this safety zone on August 4, 2020, are to depart the zone.

(3) To seek permission to enter, contact the COTP or the COTP's representative by telephone number 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Those in the safety zone must comply

with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 12:01 a.m. on August 4, 2020, until 11:59 p.m. on August 9, 2020, unless sooner terminated by the Captain of the Port Maryland-National Capital Region.

Dated: August 3, 2020.

Joseph B. Loring,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2020–17294 Filed 8–4–20; 4:15 pm]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2020–0425]

RIN 1625–AA00

Safety Zone; Les Cheneaux Islands, Cedarville, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones for navigable waters within 50 yards of certain swim routes of a marine event in the Les Cheneaux Islands in Cedarville, MI. The safety zones are needed to protect event participants from risks associated with the boating public near highly trafficked areas of the waterway. Entry of vessels or persons into these zones is prohibited unless specifically authorized by the Captain of the Port Sault Sainte Marie or a designated representative.

DATES: This rule is effective from 7 a.m. through 3 p.m. on August 23, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2020–0425 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 BOSN4 R. Gruschow, Waterways Management, Sector Sault Sainte Marie U.S. Coast Guard; telephone (906) 253–2462, email *Robert.A.Gruschow@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the final details of the specific marine event and safety zone distance were not finalized within a sufficient time to allow for notice and a subsequent comment period before the commencement of the planned marine event. Delaying this rule to allow for a notice and comment period would be impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the swimmers participating in this swim event. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because prompt action is needed to protect the swimmers participating in this event on August 23, 2020.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sault Sainte Marie (COTP) has determined that potential hazards associated with swimmers swimming between the Les Cheneaux Islands in a swim event will be a safety concern for anyone within 50 yards of certain swim routes through highly trafficked areas around the Les Cheneaux Islands. This rule is needed to protect event participants and support vessels during the event.

IV. Discussion of the Rule

This rule establishes safety zones from 7 a.m. through 3 p.m. on August 23, 2020. The duration of the zone is intended to protect event participants, support vessels, and the general boating public in these navigable waters during the marine event. No vessel or person will be permitted to enter the safety zones without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, duration, and location of the safety zones. Vessel traffic may request permission to transit the zone from the designated representative of the Captain of the Port, who may allow the vessel cross the Safety Zone when there is no risk to the event participants. The field of swimmers will not spread across the entirety of the waterway; thus, there will be opportunity for a designated representative of the Captain of the Port to allow vessels to transit the zones. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners (BNM) via VHF–FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves safety zones that will prohibit entry within 50 yards of certain swim courses between the Les Cheneaux Islands. It is categorically excluded from further review under paragraph L [60(a)] in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0425 to read as follows:

§ 165.T09–0425 Safety Zones; Les Cheneaux Islands, Cedarville, MI.

(a) *Location.* The following area is a safety zone: All navigable waters within 50 yards of a line drawn between the following coordinates, based on NAD 83:

(i) 45°58.481′ N, 084°17.546 W to 45°58.535 N, 084°18.102 W

(ii) 45°58.158 N, 084°18.319 W to 45°58.157 N, 084°18.595 W

(iii) 45°59.468 N, 084°19.826 W to 45°58.973 N, 084°19.807 W

(iv) 45°58.445 N, 084°21.792 W to 45°58.301 N, 084°22.003 W

(v) 45°58.535 N, 084°22.480 W to 45°58.732 N, 084°22.591 W to 45°59.001 N, 084°22.914 W to 45°59.044 N, 084°22.792 W

(b) *Regulations.* (1) Under the general safety zone regulations in § 165.23, no vessel or person may enter the safety zone described in paragraph (a) of this section unless authorized by the Captian of the Port Sault Sainte Marie (COTP) or the COTP's designated representative.

(2) To seek permission to enter, hail the COTP's representative on an appropriate VHF channel. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sault Sainte Marie (COTP) in the enforcement of the safety zones.

(c) *Enforcement period.* The regulated area described in paragraph (a) of this section will be enforced from 7 a.m. through 3 p.m. on August 23, 2020.

Dated: July 20, 2020.

A.R. Jones,

Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.

[FR Doc. 2020–16319 Filed 8–5–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2020–OSERS–0009]

Final Priorities and Definitions—Independent Living Services for Older Individuals Who Are Blind—Training and Technical Assistance

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

ACTION: Final priorities and definitions.

SUMMARY: The Department of Education (Department) announces priorities and definitions under the Independent Living Services for Older Individuals Who Are Blind (OIB) program, Catalog of Federal Domestic Assistance (CFDA) number 84.177Z. The Department may use one or more of these priorities and definitions for competitions in fiscal year (FY) 2020 and later years. We take this action to focus Federal financial assistance on an identified national need. We intend the priorities and definitions to improve the administration, operation, and performance of the OIB program.

DATES: These priorities and definitions are effective September 8, 2020.

FOR FURTHER INFORMATION CONTACT: Mary Williams, U.S. Department of Education, 400 Maryland Avenue SW, Room 5100, Potomac Center Plaza (PCP), Washington, DC 20202–5176. Telephone: (202) 245–7586. Email: *mary.williams@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:

Purpose of Program: The purpose of this program is to provide training and technical assistance to designated State agencies (DSAs)—the State agencies that provide vocational rehabilitation services to individuals who are blind—that receive grant funding under the OIB program and to other service providers that receive OIB program funding from DSAs to provide services to consumers. The training and technical assistance are designed to improve the operation and performance of programs and services for older individuals who are blind resulting in their enhanced independence and self-sufficiency.

Program Authority: 29 U.S.C. 796j–1.

Applicable Program Regulations: 34 CFR part 367.

We published a notice of proposed priorities and definitions (NPP) for this competition in the **Federal Register** on March 25, 2020 (85 FR 16920). The NPP contained background information and our reasons for proposing the particular priorities and definitions.

We made changes to the definition of ''intensive training and technical assistance'' and to Proposed Priority 1 to recognize that in-person services and conferences may need to be supplemented or replaced by virtual offerings during the COVID–19 pandemic. There are otherwise no substantive differences between the NPP and these final priorities and definitions.

Public Comment: In response to our invitation in the NPP, eight parties submitted comments on the proposed priorities and definitions.

Generally, we do not address technical and other minor changes, or suggested changes the law does not authorize us to make. In addition, we do not address general comments that raise concerns not directly related to the proposed priorities and definitions.

Analysis of Comments and Changes: An analysis of the comments related to the proposed priorities and definitions follows.

Proposed Priority 1—Independent Living Services for Older Individuals Who Are Blind (OIB) Training and Technical Assistance

Comment: One commenter stated that the proposed priority does not go far enough to enhance the capacity of OIB and similar programs to access additional funding to address the unmet need for OIB services. The commenter further stated that, if the OIB Training and Technical Assistance Center (Center) merely suggests funding streams and methods of collaboration and does not actually undertake educational and other initiatives that enhance the capacity of OIB and similar programs to access additional funds, this technical assistance will be a largely cosmetic undertaking.

Discussion: We do not fully agree with the commenter's characterization of the activities contemplated for the Center. Through implementation of Priority 1, the Center can train OIB grantees on how to identify State and local resources and implement strategies to acquire and effectively leverage the use of those resources, where appropriate, to meet the unmet service needs of OIB consumers. To that end, the Center will be responsible for identifying State and local resources available to the OIB program as well as promising practices that facilitate the acquisition, sharing, and leveraging of those resources within a State. This will require communication and coordination, on an ongoing basis, with other federally funded training and technical assistance projects and State OIB programs.

Changes: None.

Comment: One commenter suggested a more targeted assessment of the four core areas reflected in this proposed priority and suggested utilizing a survey of the DSAs to identify training content that would best benefit their staff.

Discussion: RSA has conducted surveys of DSAs since FY 2015 to identify their training and technical assistance needs, pursuant to the requirements of section 751A(b) of the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA) (29 U.S.C. 796j–1). Survey information is captured through the OIB annual performance reports. The four core areas reflected in Priority 1 are based on survey information gathered through the OIB annual performance reports since FY 2015.

Changes: None.

Comment: One commenter recommended changes to the proposed priority in four areas: (1) Virtual and remote services and assistance; (2) Best practices; (3) Evaluating program performance; and (4) Modifying information technology (IT) platforms.

Regarding virtual and remote services and assistance, the commenter suggested offering flexibility to provide training on remote or virtual service delivery practices to help maintain and expand service provision, particularly in large or rural service areas. Further, the commenter suggested the Department provide flexibility to the Center with respect to the form of service delivery in unusual circumstances that represent higher risks to the older people who are served by the OIB programs.

Regarding best practices, the commenter noted that the term ''best practices'' used in Priority 1, general topic area (b), in the OIB program FY 2015 grant competition was changed to ''promising practices'' in Proposed Priority 1. The commenter suggested, to the extent that best practices exist, technical assistance and training should be based on best practices, and the final priority should make this clarification.

Regarding evaluating program performance, the commenter suggested that training and technical assistance should be provided on the evaluation of programs, client progress, and outcomes, and recommended changing general topic area (b), to read ''Promising practices, including the development, dissemination, and evaluation of relevant materials to

facilitate delivery of effective services'' and changing general topic area (c) to include evaluation and to read ''Program performance, including data reporting, evaluation, and analysis.''

Regarding modifying IT platforms, the commenter indicated that ample platforms exist to support dissemination of information on training and technical assistance and suggested focusing on the channels that already exist, to the greatest extent possible, in order to maximize limited resources available for the Center and the OIB programs.

Discussion: In the area of virtual and remote services and assistance, we believe that development of training on remote or virtual service delivery practices can be accomplished under Final Priority 1, activity (b)(2). We used the term ''promising practices'' rather than ''best practices'' because ''best practices'' would rely on a higher level of evidence than is currently available in the area of serving older individuals who are blind. The term ''promising practices'' aligns with the definition of ''promising evidence'' in 34 CFR 77.1(c). However, where there are relevant evidence-based practices, we encourage the Center to provide training and technical assistance based on such practices.

Regarding the suggestions to change the language in general topic area (c), as noted earlier, the four general topic areas under Final Priority 1 are based on the results of surveys of the DSAs to determine their training and technical assistance needs. Furthermore, we believe that general topic area (c) is sufficiently flexible to allow for the provision of technical assistance on the areas of evaluation of programs, client progress, and outcomes if it is determined that these issues need to be addressed.

Regarding IT platforms, this priority allows for the development of new IT platforms or systems if existing platforms and systems cannot be effectively modified to support webinars, podcasts, video conferences, teleconferences, and other virtual methods of dissemination of information and training and technical assistance.

Changes: None.

Definitions

Comment: One commenter stated that the definition of ''intensive training and technical assistance'' lacks detail. The commenter stated that the definition could be improved and clarified by presenting methods and examples that represent the level of training received in order to differentiate between the types of training and technical assistance provided.

Discussion: We recognize that the definition of ''intensive training and technical assistance'' is broad; however, this is intentional given the range of issues that OIB agencies may encounter in their implementation of the OIB program. OIB grantees, in collaboration with this Center, will determine the type and level of intensive training and technical assistance needed. We believe that the definition offers applicants the flexibility they need to demonstrate how they would apply the definition of ''intensive training and technical assistance'' to meet the varying needs of the OIB grantees. The definition of ''intensive training and technical assistance'' used in this priority is the standard definition used for the Rehabilitation Services Administration's (RSA's) training and technical assistance centers to provide this flexibility.

Changes: None.

Comment: None.

Discussion: As a result of disruptions to in-person services arising from the COVID–19 pandemic, the Department believes it is advisable to provide for the possibility that intensive training and technical assistance might sometimes be provided through remote delivery, as needed and appropriate.

Changes: We have revised the definition of ''intensive training and technical assistance'' to allow the Center to provide intensive training and technical assistance through remote delivery as appropriate.

General

Comment: A few commenters stated that the proposed priorities could benefit from clearer descriptive labeling and language, use of shorter sentences and smaller sections to facilitate ease of reading and clarity, and hyperlinks to improve understanding, but the commenters did not offer specific suggestions or examples to improve the clarity of the proposed priorities.

Discussion: We appreciate the value of using plain language in the priorities and believe the current language is clear.

Changes: None.

Final Priorities

Priority 1—Independent Living Services for Older Individuals Who Are Blind (OIB) Training and Technical Assistance

This priority supports a cooperative agreement to establish an OIB Training and Technical Assistance Center (Center) to provide universal, targeted, and intensive training and technical assistance to designated State agencies (DSAs) funded under the OIB program and to any service providers that DSAs fund to provide services directly to consumers. The Center will develop and provide training and technical assistance in the following general topic areas:

(a) Community outreach methods and strategies to identify potential recipients of services.

(b) Promising practices, based on ''promising evidence'' as defined in 34 CFR 77.1(c), including the development and dissemination of relevant materials to facilitate the delivery of high-quality services.

(c) Program performance, including data reporting and analysis.

(d) Financial and management practices, including practices to ensure compliance with grant administration requirements.

To meet the requirements of this priority, the Center must, at a minimum, conduct the following activities:

(a) Annually provide intensive training and technical assistance to a minimum of three DSAs or other service providers on the four general topic areas in this priority. Intensive training and technical assistance may be provided through remote delivery as appropriate. The technical assistance must be—

(1) Consistent with the project activities and tailored to the specific needs and challenges of the DSA or other service provider receiving intensive training and technical assistance;

(2) Provided under an agreement with each DSA or other service provider that, at a minimum, details the purpose, intended outcomes, and requirements for subsequent evaluation of the training and technical assistance; and

(3) Assessed 90 days after completion to ensure that the DSAs and other service providers receiving intensive training and technical assistance are applying it effectively, and to address any issues or challenges in its implementation.

(b) Provide a range of targeted training and technical assistance and universal training and technical assistance products and services on the four general topic areas in this priority. The training and technical assistance must include, at a minimum, the following activities:

(1) In each year of the project, provide a minimum of 10 webinars, podcasts, video conferences, teleconferences, or other virtual methods of dissemination of information and training and technical assistance on the four general topic areas in this priority to describe

and disseminate information about emerging promising practices.

(2) Develop new information technology (IT) platforms or systems, or modify existing platforms and systems, as follows:

(i) Develop or modify, and maintain, a state-of-the-art IT platform sufficient to support webinars, podcasts, video conferences, teleconferences, and other virtual methods of dissemination of information and training and technical assistance; and

(ii) Develop or modify, and maintain, a state-of-the-art archiving and dissemination system that is open and available to the public, at no cost, and that provides a central location for later use of training and technical assistance products, including course curricula, audiovisual materials, webinars, examples of emerging and promising practices related to the four general topic areas in this priority, and any other training and technical assistance products developed by the grantee and others.

Note: All products produced by the Center must meet government and industry-recognized standards for accessibility.

(c) Conduct outreach to DSAs so that they are aware of, and can participate in, training and technical assistance activities.

(d) Establish a community of practice [1] that will act as a vehicle for communication, an exchange of information among DSAs and other service providers, and a forum for sharing the results of training and technical assistance activities that are in progress or that have been completed.

(e) Facilitate annually a minimum of one in-person conference, or, if health and safety reasons make an in-person conference infeasible, a virtual conference, for the purpose of dissemination of information related to emerging promising practices and ongoing technical assistance needs and activities.

(f) Communicate and coordinate, on an ongoing basis, with other federally funded training and technical assistance projects, particularly Department-funded projects, to ensure that training and technical assistance activities are complementary and non-duplicative.

(g) Conduct an evaluation to determine the impact of the Center's training and technical assistance on the DSAs and other service providers that received the Center's services.

[1] See: *www.sedl.org/pubs/catalog/items/dis104.html.*

Priority 2—Identify and Demonstrate How Specific Technical Assistance Strategies Provided to OIB Grantees Will Facilitate Collaboration and Leveraging of Resources at the State and Local Level

To meet the requirements of this priority, the Center must, at a minimum, develop technical assistance focused on partnerships to facilitate the sharing of information and leveraging of resources from other systems that work with aging individuals and individuals with disabilities.

These technical assistance strategies must be designed to improve the capacity of OIB grantee staff, and staff from other service providers that receive OIB program funding from DSAs to provide services to the OIB population, to acquire and develop the skills and tools they need to help the OIB population sustain and increase their ability to live independently in their homes and communities.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Definitions

The Department establishes the following definitions for this program. We may apply one or more of these definitions in any year in which this program is in effect.

Intensive training and technical assistance means training and technical assistance provided to a DSA, or other service provider that receives OIB program funding from a DSA to provide services, primarily on-site or through remote delivery, as needed and appropriate, over an extended period. Intensive training and technical assistance is based on an ongoing relationship between the training and technical assistance center staff and a DSA, or other service provider that receives OIB program funding from a DSA to provide services, under the terms of a signed intensive training and technical assistance agreement.

Targeted training and technical assistance means training and technical assistance based on needs common to one or more DSAs, or other service providers that receive OIB program funding from DSAs to provide services, on a time-limited basis and with a limited commitment of training and technical assistance center resources. Targeted training and technical assistance are delivered through virtual or in-person methods tailored to the identified needs of the participating DSAs, or other service providers that receive OIB program funding from DSAs to provide services.

Universal training and technical assistance means training and technical assistance broadly available to DSAs, or other service providers that receive OIB program funding from DSAs to provide services, and other interested parties resulting in minimal interaction with training and technical assistance center staff. Universal training and technical assistance includes generalized presentations, products, and related activities available through a website or through brief contact with the training and technical assistance center staff.

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does *not* solicit applications. In any year in which we choose to use one or more of these priorities and definitions, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866, 13563, and 13771 Regulatory Impact Analysis

Under Executive Order 12866, it must be determined whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy,

productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866, and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2020, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Because the regulatory action is not significant, the requirements of Executive Order 13771 do not apply.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing the final priorities and definitions only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

In addition, we have considered the potential benefits of this regulatory action and noted these benefits in the NPP.

Regulatory Flexibility Act Certification: The Secretary certifies that this regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below $7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that this regulatory action would affect are State and public or non-profit agencies and organizations and institutions of higher education (IHEs) that have the capacity to provide training and technical assistance in the provision of independent living services for older individuals who are blind and have demonstrated through their application a capacity to provide the level of training and technical assistance necessary to meet the priorities and definitions. We believe that the costs imposed on an applicant by the priorities and definitions would be limited to paperwork burden related to preparing an application and that the benefits of these priorities and definitions would outweigh any costs incurred by the applicant. There are very few entities that could provide the type of technical assistance the Center aims to provide. For these reasons these priorities and definitions would not impose a burden on a significant number of small entities.

Paperwork Reduction Act of 1995: The priorities and definitions contain information collection requirements that are approved by OMB under OMB control number 1820–0018.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Assessment of Educational Impact

In the NPP we requested comments on whether the proposed priorities and definitions would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPP and on our review, we have determined that these final priorities and definitions do not require transmission of information that any other agency or authority of the United States gathers or makes available.

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 program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the

Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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

Mark Schultz,

Commissioner, Rehabilitation Services Administration, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2020–17215 Filed 8–4–20; 11:15 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2020–OSERS–0014]

Final Priorities, Requirements, and Selection Criteria—Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—The Individuals With Disabilities Education Act (IDEA) Paperwork Reduction Planning and Implementation Program

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

ACTION: Final priorities, requirements, and selection criteria.

SUMMARY: The Department of Education (Department) announces priorities, requirements, and selection criteria for the IDEA Paperwork Reduction Planning and Implementation Program, Catalog of Federal Domestic Assistance (CFDA) number 84.326F. The Department may select as many as 15 States to receive support in planning for and implementing waivers of statutory requirements of, or regulatory requirements relating to, IDEA Part B to reduce excessive paperwork and noninstructional time burdens that do not assist in improving educational and functional results for children with disabilities. The Department may use these priorities, requirements, and selection criteria for competitions in fiscal year (FY) 2020 and later years. We take this action to focus attention on an identified national need to reduce paperwork burden associated with the requirements of IDEA Part B while preserving the rights of children with disabilities and promoting academic achievement.

DATES: These priorities, requirements, and selection criteria are effective September 8, 2020.

FOR FURTHER INFORMATION CONTACT: David Egnor, U.S. Department of Education, 400 Maryland Avenue SW, Room 5163, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–7334. Email: *David.Egnor@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:

Purpose of Program: The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities Program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically-based research.

Program Authority: 20 U.S.C. 1408 and 1463.

We published a notice of proposed priorities, requirements, and selection criteria (NPP) for this program in the **Federal Register** on May 29, 2020 (85 FR 32317). The NPP contained background information and our reasons for proposing these particular priorities, requirements, and selection criteria.

There are minor substantive differences between the NPP and this notice. As discussed in the *Analysis of Comments and Changes* section of this document, these changes relate to instances where we believed further clarification regarding stakeholder participation was appropriate.

Public Comment: In response to our invitation to comment in the NPP, six parties submitted comments on the proposed priorities, requirements, and selection criteria.

Generally, we do not address technical and other minor changes. In addition, we do not address comments that raised concerns not directly related to the proposed priorities, requirements, and selection criteria.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities, requirements, and selection criteria since publication of the NPP follows.

The Department received comments on several specific topics, including whether the Department had established—(1) an identified national need to reduce the paperwork burden associated with the requirements of IDEA Part B while preserving the rights of children with disabilities and promoting academic achievement; (2) the appropriateness of using funds for the stated purposes; and (3) recommendations to address perceived limitations in proposed requirements regarding stakeholder engagement, data collection, and other matters. Each topic is addressed below.

Whether there is an identified national need to reduce the paperwork burden associated with the requirements of IDEA Part B.

Comment: Several commenters raised questions regarding the needs for the IDEA Paperwork Reduction Planning and Implementation Program, noting that no States had received awards as a result of two similar prior competitions in 2007 and 2019, which they argued signified that special education paperwork reduction was no longer a significant issue in the field. The same commenters also cited recent survey results indicating that special education teachers and administrators no longer identified special education paperwork burden as a major concern as it was perceived prior to the 2004 amendments to the Individuals with Disabilities Education Act (IDEA). They also noted that, since 2004, advancements in various technologies, such as computer-based individualized education programs (IEPs), have significantly reduced the amount of time that educators spend on completing special education paperwork.

Two commenters expressed general support for seeking ways to reduce special education paperwork but cautioned that certain administrative requirements that may seem unnecessary for educators or administrators may be vital to protecting the interests of children with disabilities.

Another commenter noted that IDEA paperwork and other administrative burdens interfered with the ability of related services providers, including members of their professional association, to provide high-quality services to children with disabilities.

Discussion: We appreciate commenters' concerns about the extent to which they anticipate the proposed priorities would generate value for States. We acknowledge that, across States, the degree of administrative burdens may vary. As such, we do not anticipate every State will apply for

funding under these priorities. However, we believe it would be shortsighted to deprive every State of the opportunity to seek out ways to meaningfully, and responsibly, reduce administrative burdens so that special education teachers and related services providers can devote more time and resources to supporting the needs of children with disabilities.

We also acknowledge that the Department received no applications under other paperwork reduction initiatives in 2007, and only one application in 2019 that was not of sufficient quality to be funded. However, as noted in a 2016 GAO report, many States chose not to apply under the 2007 competition because they saw the application requirements as too burdensome and the funding level as too low to support the necessary additional staff to implement the projects.[1] We had similar concerns regarding the 2019 competition and, as a result, solicited public comment on these requirements, and the most appropriate funding level for these projects, to ensure that we strike an appropriate balance that provides States with the opportunity to address this ongoing issue while ensuring appropriate supports and safeguards.

Regarding the advent and effectiveness of technology in reducing administrative burdens, we acknowledge that such tools hold great promise for streamlining the paperwork process. However, as noted in the same GAO study, technology tools have helped ease burdens, but they have limitations. Our goal in these efforts is to help special education teachers, related services providers, and administrators complete the same forms more quickly, and to support States in strategically and purposefully considering whether the specific forms or all of the information they ask for are necessary in the first place.

We agree with the commenters that noted that unnecessary paperwork continues to interfere with the ability of educators to provide high-quality services to children with disabilities and that the Department should continue to offer opportunities for States to address the stated purposes of the program.

We agree with the commenters that certain administrative requirements that may seem unnecessary for educators or administrators may be vital to protecting the interests of children with disabilities. Within the notice, we clearly state that any waiver under section 609 of IDEA may not affect the right of a child with a disability to receive a free appropriate public education (FAPE) or waive procedural safeguards under section 615 of IDEA or applicable civil rights requirements, and we require State applicants to describe how they will continue to guarantee these protections.

Changes: None.

Alignment between the proposed activities and requirements and the intended purposes.

Comment: In response to our directed question about the extent to which the proposed activities and requirements were appropriate for States and whether alternatives existed that would accomplish the same purposes with less burden for States, the majority of commenters provided feedback about the proposed activities and proposed alternatives. Some commenters expressed concern that the proposed activities and requirements would undermine the rights and needs of children with disabilities and their families. One commenter noted that the proposed activities and requirements would help alleviate unmanageable caseloads and excessive paperwork among related services providers represented by the commenter's professional association.

Discussion: In 2004, Congress amended IDEA to provide an opportunity for States to identify ways to reduce paperwork burdens and other administrative duties that are directly associated with the requirements of IDEA Part B, in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities. We agree with the commenter that reducing unnecessary paperwork burden will increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities.

We agree with the commenters that we must ensure that the rights and needs of children with disabilities and their families are not undermined. We clearly state that the Secretary will not waive any statutory or regulatory provisions relating to procedural safeguards under section 615 of IDEA or applicable civil rights requirements and that waivers may not affect the right of a child with a disability to receive FAPE, consistent with section 609. We further propose, in the notice of proposed requirements and definition (NPR) for this program published in the **Federal Register** on June 5, 2020 (85 FR 34554), that the term ''applicable civil rights requirements'' includes, but is not limited to, the civil rights protections in the United States Constitution and the requirements of Section 504 of the Rehabilitation Act of 1973, as amended; Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Title II of the Americans with Disabilities Act of 1990; and Age Discrimination Act of 1975. We also propose within the NPR that parents have the right to understand and consent to changes that affect their children's education and that they may withdraw their consent at any time and for any reason. In short, we believe we have proposed sufficient protections to ensure States' waiver proposals preserve the fundamental rights of children with disabilities and their families under IDEA.

Changes: None.

Comments regarding award sizes.

Comment: None.

Discussion: The Department did not receive any comments responding to our directed question regarding the appropriate size of awards for the proposed priorities. We intend to propose different ranges of award sizes under Priority 1 and Priority 2, and we do not intend to establish a maximum award size for the 2020 competition to ensure appropriate flexibility for States to develop meaningful and effective proposals.

Changes: None.

Priority 1: The Individuals With Disabilities Education Act (IDEA) Paperwork Reduction Planning and Implementation Program—Planning Grants

Comment: Most commenters expressed concern that the programmatic requirements did not include a specific requirement for applicants to provide quantitative data on the anticipated benefits of any potential reforms. The commenters recommended requiring that applicants submit data documenting anticipated benefits drawing from the performance of children with disabilities on the annual State assessments required by the Every Student Succeeds Act (ESSA) or the performance of children with disabilities on the National Assessment of Educational Progress (NAEP), or both. The commenters also noted that improvement in performance on State assessments should be linked to the goals for children with disabilities articulated on the State's approved ESSA State plan.

Two commenters recommended that the final priority specify that States must continue to meet the data collection requirements of Part B of

[1] GAO–16–25 (Washington, DC: January 2016), available at: *www.gao.gov/products/GAO-16-25.*

IDEA. In addition, one commenter recommended revising the final notice to specify that school districts or States shall not reduce important required data collection activities related to racial inequities in identification, eligibility, behavioral interventions, and school suspensions or expulsions.

Further, most commenters recommended that the group of stakeholders involved in identifying target areas to reduce administrative burden should be expanded to include the State's Parent Training and Information Center (PTI) and Community Parent Resource Centers (CPRC) funded under IDEA Part D, the State's Protection and Advocacy agency, and disability advocacy organizations within each State. Similarly, two commenters recommended that the impact of administrative burdens should be identified through a consultative process with all affected stakeholder groups.

Finally, one commenter recommended that the Department take steps to encourage States to apply for the planning grants under Priority 1 but cautioned that while the grant application process should be comprehensive, it should not be burdensome.

Discussion: In Priority 1, we seek to provide the opportunity for States to identify ways to reduce paperwork burdens and other administrative duties that are directly associated with the requirements of IDEA Part B, in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities. Regarding applicants providing quantitative data on the anticipated benefits of any potential reforms, under paragraph (c)(3) of the application requirements for Priority 2, we require applicants to describe strategies they will use for analyzing data and how data collected as part of this plan will be used to inform and improve service delivery over the course of the project and to refine the implementation project and evaluation plan, including subsequent data collection. Rather than being prescriptive regarding data sources, we believe it is preferable for applicants to propose a comprehensive evaluation plan under Priority 2, which would include a description of the data to be collected. The applicant's proposed evaluation plans under Priority 2, including data sources, will be evaluated by a panel of subject-matter experts as part of the discretionary grant peer review process. We believe that peer reviewers, who will have expertise in program evaluation, are in the best position to evaluate the extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

We agree with the commenter who recommended that the Department take steps to encourage States to apply for the planning grants under Priority 1, as well as the commenter's caution that while the grant application process should be comprehensive, it should not be burdensome. The Department seeks to minimize burden in its grant competitions to the extent possible, and we will take appropriate measures to ensure that States are aware of the funding opportunity.

We appreciate commenters' concerns about whether States that receive grants under the proposed priorities will be required to continue to meet the data collection and reporting requirements under sections 616 and 618 of the IDEA. We intend to address this comment in the analysis of comments for the Final Requirements-Individuals With Disabilities Education Act (IDEA) Paperwork Reduction Waivers. To ensure that this issue is considered in planning grants under Priority 1, we are adding language to Priority 1 to ensure that the plan for a waiver proposal be consistent with the Final Requirements.

Last, we agree with the commenters who recommended that the group of stakeholders involved in identifying target areas to reduce administrative burden should be expanded to include the State's PTIs and CPRCs funded under IDEA Part D. However, while we acknowledge that a State may seek to involve the State's Protection and Advocacy agency and disability advocacy organizations within the State, we believe it is more appropriate to leave their participation up to the State applicant. We believe that it is appropriate to add PTIs and CPRCs to the list of required stakeholders to involve, as PTIs and CPRCs are critical entities supported by IDEA Part D discretionary grant resources.

Changes: Under the Programmatic Requirements for Priority 1, we have amended paragraph (b)(v) to reference the Final Requirements—The IDEA Paperwork Reduction Waiver and (a)(iv) by adding PTI and CPRC, if appropriate, representation to the list of parent stakeholders.

Comments Regarding Priority 2: The Individuals With Disabilities Education Act (IDEA) Paperwork Reduction Planning and Implementation Program—Implementation Grants

Comment: Most commenters stated that the evaluation plan for States receiving a waiver was insufficient to ensure that approved waivers would improve positive outcomes including educational and functional results for children with disabilities. Similar to comments they provided in response to Priority 1, the commenters recommended that applicants be required to provide quantitative data drawn from the performance of children with disabilities to demonstrate whether student achievement improved as a result of receiving a waiver. They also recommended that such data be based on data gathered through annual State assessments required by ESSA, the performance of children with disabilities on the NAEP, or both, and that improvement in performance on State assessments should be linked to the goals for children with disabilities articulated on the State's approved ESSA State plan, if applicable.

In addition, most commenters recommended limiting eligible applicants for paperwork reduction waivers to States that have received a ''Meets Requirements'' rating in their latest annual determination regarding their implementation of IDEA.

Discussion: We seek, consistent with section 609 of IDEA, to provide an opportunity for States to identify ways to reduce paperwork burdens and other administrative duties that are directly associated with the requirements of IDEA Part B in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities. Regarding applicants providing quantitative data relying on the data sources identified by the commenters, under paragraph (c)(3) of the application requirements for Priority 2, we require applicants to describe strategies they will use for analyzing data and how data collected as part of the evaluation plan will be used to inform and improve service delivery over the course of the project and to refine the implementation project and evaluation plan, including subsequent data collection. Rather than being prescriptive regarding data sources, we believe it is preferable for applicants to propose a comprehensive evaluation plan. An applicant's proposed evaluation plan under Priority 2, including data sources, will be evaluated by a panel of subject-matter experts with experience in program evaluation as part of the discretionary grant peer review process for Priority 2. We believe that peer reviewers with expertise in program evaluation are in the best position to evaluate the extent to which the goals, objectives, and outcomes to be achieved by the

proposed project are clearly specified and measurable.

Because section 609 of IDEA does not address eligibility for planning grants and because a State's annual determination under section 616(d)(2)(A) of IDEA that it ''meets requirements'' could change from the period of application for a planning grant to the period when a waiver is sought, we do not believe that eligibility for planning grants should be limited to those States that are in ''meets requirements.'' Regarding eligibility standards for seeking waivers, these will be established in Final Requirements—The Individuals With Disabilities Education Act (IDEA) Paperwork Reduction Waivers. We encourage States applying under Priority 1 that believe they may ultimately seek a waiver under section 609 to review and be mindful of those requirements.

Changes: None.

Comment: One commenter recommended revising Priority 2 to align with the requirement in Priority 1 that the implementation plan identify State and local statutory and regulatory requirements or policies, procedures, and practices that exceed IDEA Part B statutory and regulatory requirements and were considered for revision.

Discussion: We agree with the commenter regarding the importance of identifying State and local requirements, policies, procedures, and practices that exceed IDEA statutory and regulatory requirements. However, this matter is already addressed in Priority 1 and in the NPR, which remains open for public comment. Those proposed requirements provide detailed information regarding what States are required to submit as part of their waiver request, including any State and local requirements they plan to waive that exceed IDEA requirements.

Changes: None.

Comment: One commenter recommended amending Priority 2 paragraph (c)(1)(v) to add language that includes the parent of the child to emphasize the importance of family engagement in the IEP Team process.

Discussion: We agree with the commenter regarding the importance of parent and family engagement. The final notice has been revised to include the recommended language.

Changes: We have revised paragraph (c)(1)(v) of the Programmatic Requirements for Priority 2 to include language that specifies the parent of the child.

Other Comments

Comment: One commenter recommended that the final priority should specifically exclude any changes to a child's IEP, triennial evaluations and reporting, and written communication to parents on student progress.

Discussion: We understand the commenter's concern. However, this comment is more germane to the NPR, which remains open for public comment. We will consider this recommendation as part of that rulemaking. In addition, we note that section 609 clearly states that waivers may not affect the right of a child with a disability to receive FAPE and that procedural safeguards under section 615 of IDEA and applicable civil rights requirements cannot be waived. The NPP also states that States are required to describe how they will continue to guarantee these protections. Further, the NPP requires applicants to describe how their application promotes collaboration between IEP Team members, which includes communicating with parents on their child's progress.

Changes: None.

Comment: One commenter recommended that the Department widely disseminate information on the benefits and outcomes of all State waivers that are granted.

Discussion: We agree with the commenter and will make this information available. Section 609 of IDEA requires that the Secretary include in the annual report to Congress information related to the effectiveness of waivers granted, including any specific recommendations for broader implementation of such waivers in reducing the paperwork burden on teachers, principals, administrators, and related service providers and noninstructional time spent by teachers in complying with IDEA Part B requirements; enhancing longer-term educational planning; improving positive outcomes for children with disabilities; promoting collaboration between IEP Team members; and ensuring satisfaction of family members.

Changes: None.

Comment: One commenter recommended that the Department coordinate with the Centers for Medicaid & Medicaid Services and the Children's Health Insurance Program within the U.S. Department of Health and Human Services (HHS) to reduce administrative burden of duplicative paperwork for school-based providers who utilize IDEA funds and bill Medicaid. In addition, the commenter recommended that the Department and HHS co-develop trainings and provide technical assistance for billing and payment administration of Medicaid services in schools to reduce paperwork burden with utilizing IDEA funds and billing Medicaid.

Discussion: We understand the commenter's concern, but this recommendation is beyond the scope of this notice. Further, the waiver program is intended to be specific to paperwork and administrative burdens resulting from IDEA requirements, not for those resulting from other Federal programs.

Changes: None.

Comments: None.

Discussion: Upon further review, the Department recognized that the specific language included in the ''Funding Eligibility Requirements'' section of the NPP may unnecessarily limit the Department's flexibility in using the priorities. Specifically, the proposed language did not contemplate a scenario in which the Department would, to reduce burdens for applicants and the Department, encourage applicants to propose projects that would address both Priority 1 and Priority 2. We have therefore revised the language in that section to: (1) Clarify that the requirement to obtain a waiver under section 609 applies to the receipt of funding, not eligibility; (2) add a new subparagraph (b)(2)(ii)(A) to clarify that grantees who have received funding under both priorities would, in the event they proposed a project to address both priorities, immediately be able to begin activities under Priority 2 upon receipt of a waiver from the Secretary; and (3) redesignate a portion of proposed paragraph (b)(2)(ii) as new subparagraph (b)(2)(ii)(B) and clarify that it applies to grantees who only received awards to address Priority 1.

Changes: We have revised paragraph (1) under *Funding Eligibility Requirement* to clarify the requirement pertains to the receipt of funding, not eligibility. We have also revised paragraph (b)(2)(ii) to more specifically address applicants that received funding under only Priority 1 and those who received funding under Priorities 1 and 2.

Comments Regarding Selection Criteria

Comment: One commenter recommended multiple edits to the proposed selection criteria, deleting certain terms or phrases and inserting others. For example, the commenter recommended deleting references to ''consumers'' and referring instead to ''educators, related service providers, teachers, principals and administrators.''

Discussion: We agree with the commenter that we should replace the term ''consumer'' with the recommended text to clarify the relevant stakeholders.

Changes: We have revised paragraph (b)(2)(ii) of the selection criteria to consider the extent to which the proposed project encourages and is responsive to the involvement of parents, educators, related service providers, teachers, principals and administrators.

Final Priority

Priority 1: The Individuals With Disabilities Education Act (IDEA) Paperwork Reduction Planning and Implementation Program—Planning Grants

The Department seeks to make awards to State educational agencies (SEAs) to assist them in identifying excessive paperwork and noninstructional time burdens on special education teachers, related services providers, and State and local administrators that do not assist in improving educational and functional results for children with disabilities (hereafter in the priority, ''administrative burdens'') and developing comprehensive plans to reduce them. These activities include conducting a comprehensive review of local, State, and Federal IDEA Part B requirements that lead to administrative burdens, as well as, at the discretion of the State, preparing IDEA Paperwork Reduction Waivers for submission to the Department.

Planning projects funded by the Department must achieve, at a minimum, the following expected outcomes—

- Identification of the particular sources and effects of administrative burdens on special education and other teachers, related services providers, and State and local administrators under IDEA Part B; and
- A plan to reduce these administrative burdens.

Under this priority, applicants must propose projects that meet the following programmatic requirements:

(a) The project must meaningfully consult a diverse group of stakeholders on an ongoing basis to support the goals and objectives of the project. Such a group must include, at a minimum, representatives of the following groups:

(i) Special education teachers and related services providers.

(ii) Local special education administrators.

(iii) Individuals with disabilities.

(iv) Parents of children with disabilities, as defined in IDEA section 602(23), including representation of Parent Training and Information Centers (PTIs) and (if applicable) Community Parent Resource Centers (CPRCs).

(v) The State Advisory Panel.

(b) The project must prepare a plan that—

(i) Identifies the State and local statutory and regulatory requirements or policies, procedures, and practices that exceed IDEA Part B statutory and regulatory requirements and were considered for revision;

(ii) Describes the range of options available to the State in reducing administrative burdens, including any limitations on those options (*e.g.,* statutory or regulatory requirements, judicial precedent);

(iii) Establishes clear and achievable timelines for reducing administrative burdens;

(iv) Identifies the anticipated benefits of any potential reforms, including likely beneficiaries, and the magnitude and scope of anticipated benefits, such as reductions in administrative burden hours and potential increases in the time and resources available for instruction and other activities intended to improve educational and functional results for children with disabilities;

(v) Identifies any Federal IDEA Part B statutory or regulatory requirements for which a waiver may be sought under section 609 of IDEA, consistent with the requirements established in the Final Requirements—The IDEA Paperwork Reduction Waivers; and

(vi) Describes the procedures the State will use to ensure that any waiver that may be sought in accordance with section 609 of IDEA will not—

(A) Waive any statutory requirements of, or regulatory requirements relating to, applicable civil rights requirements or procedural safeguards under section 615 of IDEA; or

(B) Affect the right of a child with a disability to receive FAPE under IDEA Part B.

To be considered for funding under this priority, applicants must also meet the following application requirements. Each applicant must—

(a) Demonstrate, in the narrative portion of the application under ''Need for the project,'' how the proposed project will identify administrative burdens. To meet this requirement, the applicant must describe what it believes to be—

(1) The approximate current magnitude and scope of the administrative burdens to be addressed;

(2) The approximate current number of special education teachers, related services providers, and State and local administrators affected by those burdens and the number of children with disabilities that they serve; and

(3) The approximate current costs and benefits of those burdens on special education teachers, related services providers, State and local administrators, and children with disabilities (*e.g.,* teacher retention, planning time, transparency for families);

(b) Demonstrate, in the narrative portion of the application under ''Significance'' how the proposed planning project will—

(1) Develop a plan to reduce administrative burdens and produce meaningful and sustained change at the State or local level; and

(2) Develop proposals for changes to, or waivers of, specific requirements, policies, procedures, or practices that will reduce administrative burdens in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities;

(c) Demonstrate, in the narrative section of the application under ''Quality of the project design,'' how the proposed project will—

(1) Meet the consultation requirements in paragraph (a) of the programmatic requirements of this priority, including, but not limited to, a proposed timeline for the consultation process, including a description of the methods of consultation (*e.g.,* in-person meetings, conference calls, emails);

(2) Identify local, State, or Federal IDEA Part B requirements, policies, procedures, or practices that may generate administrative burdens and may be reviewed by the project, including any proposed criteria for that review (*e.g.,* frequency, complexity, number of staff affected, number of families affected);

(3) Assess the extent to which specific sources of administrative burdens may affect educational and functional results for children with disabilities; and

(4) Produce and make publicly available a plan that meets the requirements in paragraph (b) under the programmatic requirements of this priority and providing an opportunity for stakeholders enumerated in paragraph (a) of the programmatic requirements of this priority to comment on the plan; and

(d) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks, including the publication of the final plan on the State's website within three months of the close of the project period;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes; and

(3) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policymakers, among others, in its development and operation.

Priority 2: The Individuals With Disabilities Education Act (IDEA) Paperwork Reduction Planning and Implementation Program—Implementation Grants

Implementation grants provide funds for States to implement comprehensive plans to reduce administrative burdens submitted by the State and approved by the Secretary under section 609 of IDEA. This includes costs associated with developing products or materials that are part of comprehensive plans, such as creating information technology systems to automate paperwork, or creating new, streamlined paperwork to replace more time-consuming paperwork.

To be considered for funding under this priority, an applicant must meet the following application requirements.[2] Each applicant must—

(a) Demonstrate, in the narrative section of the application under ''Quality of the project design,'' how the proposed project will—

(1) Disseminate information about changes in processes, practices, and procedures necessary to reduce administrative burdens to all special education teachers, related services providers, and State and local administrators affected by the State's waiver under section 609 of IDEA (hereafter ''affected staff''), including—

(i) The modes of communication the project will use;

(ii) The frequency of communication; and

(iii) The content of such communications;

(2) Support the training of all affected staff regarding changes in processes, practices, and procedures necessary to reduce administrative burdens, including a description of the project's intended means of providing this training;

(b) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes; and

(3) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policymakers, among others, in its development and operation; and

(c) Include, in the narrative section of the application under ''Quality of the project evaluation,'' an evaluation plan for the implementation project. The evaluation plan must—

(1) Articulate formative and summative evaluation questions for evaluating important processes and outcomes, including whether, and how effectively, the waiver—

(i) Reduces paperwork burden on teachers, principals, administrators, and related services providers;

(ii) Reduces non-instructional time spent by teachers in complying with IDEA Part B;

(iii) Enhances longer-term educational planning;

(iv) Improves positive outcomes, including educational and functional results, for children with disabilities;

(v) Promotes collaboration between individualized education program (IEP) Team members, including the parents of the child; and

(vi) Ensures satisfaction of family members of children with disabilities and teachers, principals, administrators, and related service providers;

(2) Describe how progress in, and fidelity of, implementation, as well as project outcomes, will be measured to answer the evaluation questions; specify the measures and associated instruments or sources for data appropriate to the evaluation questions; and include information regarding reliability and validity of measures where appropriate;

(3) Describe strategies for analyzing data and how data collected as part of this plan will be used to inform and improve service delivery over the course of the project and to refine the proposed implementation project and evaluation plan, including subsequent data collection;

(4) Provide a timeline for conducting the evaluation and include staff assignments for completing the evaluation; and

(5) Dedicate sufficient funds in each budget year to cover the costs of developing, refining, and implementing the evaluation plan.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Requirements: The Department establishes the following requirements for these priorities. We may apply one or more of these requirements in any year in which the program is in effect.

Funding Eligibility Requirements:

(a) In order to receive funding for an implementation grant an applicant must already have a waiver under section 609 of IDEA approved by the Secretary.

(b) For an applicant that receives a grant under Priority 1—

(1) That does not submit a waiver proposal to the Secretary under section 609 of IDEA within 12 months of the start of the project period, the grant will end after 12 months without opportunity for extension;

[2] For any State that receives a waiver of Federal IDEA Part B requirements, the Secretary will terminate the waiver if the Secretary determines that the State failed to appropriately implement its waiver, or the Secretary determines the State needs assistance in implementing IDEA requirements and the waiver has contributed to or caused such need for assistance. The Secretary will also terminate the waiver if the Secretary determines the State needs intervention in implementing IDEA requirements, or needs substantial intervention in implementing IDEA requirements.

(2) That submits a waiver proposal to the Secretary under section 609 of IDEA within 12 months of the start of the project period, the project period will, if applicable, be automatically extended for a period, not to exceed six months, during which the Secretary will consider the proposal.

(i) While a State's waiver proposal is under review, grantees may continue to access available remaining funds to conduct one or more of the following planning grant activities:

(A) Responding to possible questions from the Department regarding the State's proposal to obtain a waiver under section 609 of IDEA and the IDEA Paperwork Reduction Waivers.

(B) Continuing to develop, or implement, planned activities to reduce administrative burdens.

(ii) If the Secretary approves the State's IDEA paperwork reduction waiver under section 609 of IDEA and

(A) and The grantee received a grant under Priorities 1 2, the grantee may use remaining funds and additional funding obligated by the Department under this program to carry out activities under Priority 2.

(B) The grantee only received a grant under Priority 1, the grantee may continue to access available remaining funds to ensure continuity of the project while applying for an implementation award under Priority 2. The project period for the grant under Priority 2 must end no later than 45 days after an award is made under Priority 2 without opportunity for extension.

(iii) If the Secretary denies the State an IDEA paperwork reduction waiver under section 609 of IDEA, the project period will end no more than 30 days after the State's receipt of the Secretary's decision, without opportunity for extension.

Final Selection Criteria:

The Department establishes the following selection criteria for evaluating applications under this program. We may apply one or more of these criteria in any year in which this program is in effect.

(a) *Significance.*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the likelihood that the proposed project will reduce administrative burdens and increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities.

(b) *Quality of the project design.*

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the design of the proposed project will successfully reduce administrative burdens and increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities.

(ii) The extent to which the proposed project encourages and is responsive to the involvement of parents, educators, related service providers, teachers, principals and administrators.

(iii) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(iv) The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replication of project activities or strategies, including information about the effectiveness of the approach or strategies employed by the project.

(c) *Quality of the management plan.*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers how the applicant will ensure that a diversity of perspectives is brought to bear in the operation of the proposed project, including those of parents, teachers, related services providers, school administrators, and others, as appropriate.

This document does not preclude us from proposing additional priorities, requirements, definitions or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use these priorities, requirements, and selection criteria, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) determines whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

Under Executive Order 13771, for each new rule that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866, and that imposes total costs greater than zero, it must identify two deregulatory actions. For Fiscal Year 2020, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Because the final regulatory action is not significant, the requirements of Executive Order 13771 do not apply.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety,

and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final priorities, requirements and selection criteria only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Discussion of Potential Costs and Benefits

The Department believes that the costs associated with this final priority and requirements will be minimal, while the benefits are significant. The Department believes that this regulatory action does not impose significant costs on eligible entities. Participation in this program is voluntary, federal funds to support project activities are provided to successful applicants, and the costs imposed on applicants by this regulatory action will be limited to paperwork burden related to preparing an application. The benefits of implementing the program will outweigh the costs incurred by applicants, and the costs of carrying out activities associated with the application will be paid for with program funds. For these reasons, we have determined that the costs of implementation will not be excessively burdensome for eligible applicants.

Regulatory Alternatives Considered

The Department believes that these final priorities, requirements and selection criteria are needed to administer the program effectively.

Paperwork Reduction Act of 1995

These final priorities, requirements and selection criteria contain collection requirements that are approved by OMB under OMB control number 1820–0028; the final priorities, requirements and selection criteria do not affect the currently approved data collection.

Regulatory Flexibility Act Certification: The Secretary certifies that this final regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration (SBA) Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below $7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that this final regulatory action will affect are SEAs. We believe that the costs imposed on an applicant by these final priorities, requirements and selection criteria will be limited to paperwork burden related to preparing an application and that the benefits of these final priorities, requirements and selection criteria will outweigh any costs incurred by the applicant.

Participation in the IDEA Paperwork Reduction Planning and Implementation Program is voluntary. For this reason, these final priorities, requirements and selection criteria will impose no burden on small entities unless they applied for funding under the program. We expect that in determining whether to apply for Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program funds, an eligible entity will evaluate the requirements of preparing an application and any associated costs, and weigh them against the benefits likely to be achieved by receiving an IDEA Paperwork Reduction Planning and Implementation Program grant. An eligible entity will most likely apply only if it determines that the likely benefits exceed the costs of preparing an application.

We believe that these final priorities, requirements and selection criteria will not impose any additional burden on a small entity applying for a grant than the entity would face in the absence of the final action. That is, the length of the applications those entities would submit in the absence of the final regulatory action and the time needed to prepare an application will likely be the same.

This final regulatory action will not have a significant economic impact on a small entity once it receives a grant because it would be able to meet the costs of compliance using the funds provided under this program.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

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

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

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

your search to documents published by the Department.

Mark Schultz,

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

[FR Doc. 2020–17213 Filed 8–4–20; 11:15 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2019–OSERS–0163]

Final Priorities—Rehabilitation Training: Innovative Rehabilitation Training Program

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

ACTION: Final priorities.

SUMMARY: The Department of Education (Department) announces priorities under the Innovative Rehabilitation Training program, Catalog of Federal Domestic Assistance (CFDA) number 84.263D/E/F. The Department may use one or more of these priorities for competitions in fiscal year (FY) 2020 and later years. We take this action to focus Federal financial assistance on an identified national need to improve the knowledge and skills of vocational rehabilitation (VR) personnel in providing VR services to individuals with disabilities and improve the Client Assistance Program (CAP) personnel in advising, informing, and advocating on behalf of VR participants and applicants with disabilities.

DATES: *Effective Date:* These priorities are effective September 8, 2020.

FOR FURTHER INFORMATION CONTACT: Cassandra P. Shoffler, U.S. Department of Education, 400 Maryland Avenue SW, Room 5122, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7827. Email: *84.263DEF@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:

Purpose of Program: The Innovative Rehabilitation Training program is designed to develop (a) new types of training programs for rehabilitation personnel and to demonstrate the effectiveness of these new types of training programs for rehabilitation personnel in providing rehabilitation services to individuals with disabilities; (b) new and improved methods of training rehabilitation personnel so that there may be a more effective delivery of rehabilitation services to individuals with disabilities by designated State rehabilitation agencies and designated State rehabilitation units or other public or non-profit rehabilitation service agencies or organizations; and (c) new innovative training programs for VR professionals and paraprofessionals to have a 21st-century understanding of the evolving labor force and the needs of individuals with disabilities so they can more effectively provide VR services to individuals with disabilities.

Program Authority: 29 U.S.C. 709(c) and 772.

Applicable Program Regulations: 34 CFR parts 385 and 387.

We published a notice of proposed priorities (NPP) for this competition in the **Federal Register** on April 27, 2020 (85 FR 23266). The NPP contained background information and our reasons for proposing the particular priorities.

There are some differences between Priority 1 in the NPP and the final Priority 1 adopted here, as discussed in the *Analysis of Comments and Changes* section of this document. The differences between the proposed and final Priority 2 and Priority 3 are minor editorial and technical corrections. We are not establishing Proposed Priority 4 as a final priority through this regulatory action. Proposed Priority 4 was also proposed for Department-wide use in the Secretary's Administrative Priorities for Discretionary Grant Programs published in the **Federal Register** on November 29, 2019 (84 FR 65734). In order to ensure that the priority would be available for this competition, RSA proposed it in the NPP for this competition as well. The Secretary's Final Administrative Priorities for Discretionary Grant Programs were published in the **Federal Register** on March 9, 2020 (85 FR 13640). Therefore, there is no need to adopt the priority again in this document.

Public Comment: In response to our invitation in the NPP, 79 parties submitted comments on the proposed priorities.

We group major issues according to subject. We discuss substantive issues under each of the priorities to which they pertain. Generally, we do not address technical and other minor changes, or suggested changes the law does not authorize us to make. In addition, we do not address general comments that raise concerns not directly related to the proposed priorities.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities from the NPP follows.

Priority 1—Innovative Rehabilitation Training Project, Client Assistance Program

Comment: Some commenters expressed concern that the proposed priority would merge CAP training with academic programs for VR counselors and, thus, fail to meet the training needs of CAP professionals, whose knowledge, competencies, and goals are substantially different from those of VR counselors. These commenters' concern is based on a statement in the NPP that indicated that the project must develop a new or substantially improved training program, including stand-alone modules to be incorporated into an existing academic degree program for educating VR counselors or other VR professionals and paraprofessionals.

Discussion: The Department agrees that the CAP professionals' competencies and goals are substantially different from those of VR counselors and that a combined academic program for both VR and CAP professionals would not meet the training needs of CAP professionals. This priority was not intended to create a merged academic program for both CAP and VR personnel. The CAP training program will continue to be a program geared to the professional needs and the required knowledge, skills, and competencies of CAP professionals. The established, stand-alone modules referenced in this document do not represent the entire CAP training program. The training program includes ad hoc training activities and ongoing technical assistance, in addition to the established, stand-alone modules. Some, but not all, of these stand-alone modules may be incorporated into existing VR academic degree programs, for example, to improve VR professionals' and paraprofessionals' understanding about the CAP program and the individuals the program serves. The majority of training activities are focused on the professional needs and required knowledge, skills, and competencies of CAP professionals. We are revising the priority to make this distinction clear.

Changes: The Department added examples of innovative CAP training delivery methods and knowledge translation techniques in Priority 1. We added language to Priority 1 to: (1) Incorporate multiple references to the program's focus on the training needs of CAP professionals as distinct from those of VR professionals; (2) specify that the

training plan must be based on the identified training needs of CAP professionals to effectively carry out the Client Assistance Program responsibilities under section 112 of the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA) (Rehabilitation Act); and (3) provide context that the purpose of any stand-alone modules incorporated into VR academic degree or short-term training programs is to promote greater understanding among VR professionals and paraprofessionals and individuals studying to become VR professionals and paraprofessionals about the CAP program and the individuals that it serves.

Comment: Some commenters expressed concern that the proposed priority would fail to meet CAP professionals' training needs, because of its apparent focus on a fixed, academic curriculum rather than on a flexible training program that adapts to changing circumstances and emerging challenges in the field, as reported by the CAP professionals themselves. These commenters' concern is based on the statement in the NPP that the training program or modules must be developed by the end of the first year of the project period and piloted, refined, implemented, evaluated, and disseminated in years two, three, four, and five of the performance period. Implicit in the commenters' comments about a combined program for VR and CAP professionals is the concern that the Department has not clearly enough delineated the CAP priority.

Discussion: The Department agrees that the CAP training activities and materials must be responsive to changing circumstances and emerging challenges in the field. Conversely, CAP training also encompasses subjects ranging from fiscal management to compliance with the Rehabilitation Act, which are relatively stable and lend themselves to established training modules. In addition, the Department acknowledges that Proposed Priority 1 did not clearly describe what would constitute innovative training delivery and knowledge translation methods and techniques. Accordingly, the Department has determined that adding examples could support entities preparing applications and, in turn, strengthen the CAP Innovative Training program.

Changes: We added language to topic area one of Priority 1 to indicate that the CAP training program will consist of established training modules, ad hoc training activities developed in response to emerging circumstances or trends, and stand-alone training modules that can be incorporated into existing academic degree or short-term VR training programs. All training options will be subject to periodic review and updates. In addition, the Department added examples of innovative CAP training delivery methods and knowledge translation techniques in Priority 1.

Comment: Some commenters expressed concern that the proposed priority did not adequately reflect the CAP program requirements under section 112 of the Rehabilitation Act, including those related to individual and systems advocacy; the Americans with Disabilities Act of 1990; and coordination of CAP training and technical assistance activities with those for the Protection and Advocacy of Individual Rights (PAIR) program.

Discussion: The Department agrees that CAP responsibilities under the Rehabilitation Act are at the heart of the CAP training program. The need for continued training based on the CAP responsibilities under the Rehabilitation Act was implicit in the proposed priority. It is appropriate to emphasize this basis for the CAP training in the final priority.

Changes: We added language to topic area one of Priority 1 to establish as key focal points of CAP training the following items: (1) CAP professionals' knowledge, skills, and competencies regarding CAP program responsibilities under section 112 of the Rehabilitation Act and the VR service provision requirements in the Rehabilitation Act, particularly in support of the implementation of key provisions of WIOA; and (2) training and technical assistance activities, which must be coordinated with the entity providing training and technical assistance to the PAIR program, consistent with section 509 of the Rehabilitation Act.

Comment: Some commenters expressed concern that the proposed priorities did not address CAP professionals' need for ongoing technical assistance regarding legal or policy issues related to the Rehabilitation Act.

Discussion: The Department agrees that ongoing technical assistance on legal or policy issues related to the Rehabilitation Act is necessary for CAP professionals to apply knowledge gained through CAP training situations and circumstances that arise in their States.

Changes: We have added language to topic area one of Priority 1 to require the CAP training program to incorporate ongoing technical assistance related to topics addressed in the training modules and ad hoc training activities, including consultation and technical assistance on the options for applying existing law, regulations, and RSA-issued guidance to specific factual circumstances that arise in the course of CAP professionals' individual or systems advocacy efforts.

Comment: Some commenters expressed concern that the proposed priorities did not address CAP professionals' need for training on essential supporting skills, including advocacy and fiscal management.

Discussion: The Department agrees that strong advocacy and fiscal management skills are essential for CAP professionals to effectively fulfill their responsibilities under the Rehabilitation Act.

Changes: We have added language to topic area one of final Priority 1 to incorporate the following topics among the five required training subject areas: (1) Program and fiscal management training to promote the cost-effective use of Federal and non-Federal resources and (2) leadership, relationship-building, outreach, and individual and systems advocacy skills to promote effective interaction by CAP professionals with VR clients and applicants, State VR agencies, State Rehabilitation Councils, and other stakeholders.

Comment: None.

Discussion: In the background section of Priority 1, the NPP included examples of the expanded opportunities for employment and career advancement under WIOA that are to be addressed in the CAP Innovative Rehabilitation Training program. The Department considers it helpful to include these examples in the text of the final priority itself, so that they will be easily referenced by applicants.

Changes: The Department added to Priority 1 the following examples of the expanded opportunities for employment and career advancement to be addressed through the CAP Innovative Rehabilitation Training program: Pre-employment transition services, work-based learning, apprenticeships, customized employment, career pathways, and postsecondary credentials, including advanced degrees.

Comment: None.

Discussion: Priority 1 requires a process of continuous feedback and improvement under the CAP training program. The Department is adding that a process of continuous evaluation is also required and is providing examples in this requirement to clarify the priority's intent, increase the quality of applications, and, thereby, strengthen

the CAP Innovative Rehabilitation Training program.

Changes: The Department clarified that continuous evaluation is also required and provided examples pertinent to the process of feedback, evaluation, and improvement in Priority 1.

Priority 2—Innovative Rehabilitation Training Program, Assisting and Supporting Individuals With Disabilities Pursuing Self-Employment, Business Ownership, and Telecommuting

Comment: One commenter supported the priority topic area.

Discussion: The Department appreciates the comment and the support for the priority topic area.

Changes: None.

Priority 3—Innovative Rehabilitation Training Program, Field Initiated

Comment: Many commenters stated the importance of and need for vocational evaluation training programs in the VR field.

Discussion: The Department agrees with the commenters that vocational evaluation training is important. In FY 2019, the Department held a competition and funded a five-year award under the Innovative Rehabilitation Training program with a topic area called ''career assessments for VR service recipients'' to address the importance of vocational evaluation in identifying and providing VR services. The Department does not believe that it is necessary to hold a second competition in this topic area in such a short time. However, applicants under this field-initiated priority may propose a topic in vocational evaluation.

Changes: None.

Priority 4—Applications From New Potential Grantees

Comment: One commenter recommended that the Department not eliminate applications from institutions of higher education that received grants under this program in the past and have the individuals with expertise and experience in delivering training programs.

Discussion: Priority 4 is designed to attract new applications, but does not preclude applications from eligible entities, including institutions of higher education that received a grant under this program. Eligible applicants who have received a grant in the past, have an active grant in another program, or have an active discretionary grant under this program, including through membership in a group application, may still submit an application and be considered for funding under other priorities.

It should be noted that Priority 4 was also proposed on November 29, 2019, in the Secretary's Administrative Priorities for Discretionary Grant Programs (84 FR 65734). In order to ensure that Priority 4 would be available for this competition, RSA proposed it in the NPP for this competition as well. The Secretary's Final Administrative Priorities for Discretionary Grant Programs were published in the **Federal Register** on March 9, 2020 (85 FR 13640). Therefore, there is no need to adopt the priority again in this document.

Changes: As a Department-wide priority for applications from new potential grantees has already been established, Proposed Priority 4 is not established through this regulatory action.

Final Priorities

Priority 1—Innovative Rehabilitation Training Program, Client Assistance Program

A project under this priority must increase the CAP professionals' knowledge about all requirements governing the CAP program and VR services under the Rehabilitation Act, while also increasing the capacity of CAP professionals to inform VR clients and applicants about the expanded opportunities available under the Workforce Innovation and Opportunity Act (WIOA) and provide the assistance and advocacy that the clients and applicants need. The project must enhance CAP professionals' knowledge, skills, and competencies in each of the following required subject areas: (a) CAP responsibilities in section 112 of the Rehabilitation Act and the VR service provision requirements in the Rehabilitation Act, particularly in support of the implementation of key provisions of WIOA; (b) expanded opportunities for quality employment under WIOA and the pertinent provisions regarding unified and combined State plans, common performance measures, and the workforce development system, including pre-employment transition services, work-based learning, apprenticeships, customized employment, career pathways, and postsecondary credentials, including advanced degrees; (c) opportunities and challenges for individuals with the most significant disabilities, students and youth with disabilities, and traditionally underserved populations, including those at the intersection of poverty and disability; (d) program and fiscal management training to promote the effective use of Federal and non-Federal resources under the Rehabilitation Act; and (e) leadership, relationship-building, outreach, and individual and systems advocacy skills to promote effective interaction by CAP professionals with VR clients and applicants, State VR agencies, State Rehabilitation Councils, and other stakeholders.

The project must develop a new or substantially improved training program meeting the professional needs and the required knowledge, skills, and competencies of CAP professionals. The CAP Training program will consist of established, stand-alone training modules as well as ad hoc training activities developed in response to emerging circumstances or trends. Stand-alone training modules may include selected topics that can be incorporated into existing academic degree or short-term VR training programs, for example, to promote greater understanding among VR professionals and paraprofessionals about the CAP program and the individuals that the program serves.

The CAP training program will also encompass ongoing technical assistance related to topics addressed in the training modules and ad hoc training activities, including consultation and technical assistance on options for applying existing law, regulations, and RSA-issued guidance to specific factual circumstances that arise in the course of CAP professionals' individual or systems advocacy efforts.

Training delivery methods must encompass: (a) State-of-the-art communication tools and platforms, including an interactive project website, distance learning and convening technologies, social media, and searchable databases; and (b) the latest knowledge translation methods and techniques, including engaging training recipients with different learning styles.

The project must develop an overall training plan specifying the major components (*e.g.,* training modules, ad hoc training activities, and ongoing technical assistance), informational resources (*e.g.,* curricula, materials, searchable databases, communities of practice), and modes of delivery (*e.g.,* in-person, virtual). The training plan must be based on the identified training needs of CAP professionals to effectively carry out the CAP responsibilities under title IV, section 112 of the Rehabilitation Act.

The training modules must be developed by the end of the first year of the project period and piloted, refined, implemented, evaluated, and

disseminated in years two, three, four, and five of the project period. The ad hoc training activities and technical assistance will be developed on an ongoing basis in response to circumstances and emerging needs.

A process for continuous feedback, evaluation, and improvement to ensure that the training modules, the ad hoc training activities, and technical assistance are responsive to the needs of CAP professionals throughout years two, three, four, and five must be included. This process may include surveys, success stories, and analyses of data elements specified in the Annual CAP Performance Report (RSA–227).

The training and technical assistance must be of sufficient scope, intensity, and duration for CAP professionals to achieve increased skill, knowledge, and competence in the topic areas.

The applicant must review and incorporate the resources developed by the RSA VR Technical Assistance Centers and Demonstration and Training projects, available at the National Clearinghouse for Rehabilitation Training Materials, and other Federal and nongovernment sources, as appropriate, in developing its training and technical assistance curricula and delivery methods.

Training and technical assistance activities also must be coordinated with the entity providing training and technical assistance to the Protection and Advocacy of Individual Rights program, consistent with section 509 of the Rehabilitation Act.

Priority 2—Innovative Rehabilitation Training Program, Assisting and Supporting Individuals With Disabilities Pursuing Self-Employment, Business Ownership, and Telecommuting

A project in the area of assisting and supporting individuals with disabilities pursuing self-employment, business ownership, and telecommuting must develop a new or substantially improved and, to the extent possible, evidence-based [1] training program, including stand-alone modules and instructional materials to be incorporated into an existing academic degree program for educating VR counselors or other VR professionals and paraprofessionals or into short-term training for VR professionals, or both. The training program or modules must be developed by the end of the first year of the project period and piloted, refined, implemented, evaluated, and disseminated in years two, three, four, and five of the project period. A process for continuous feedback, evaluation, and improvement to ensure the training program or modules are responsive to the needs of VR professionals and paraprofessionals throughout years two, three, four, and five must be included. This process may include evidence collected from surveys or success stories or other forms of evidence.

The training must be of sufficient scope, intensity, and duration for VR professionals, paraprofessionals, and individuals studying to become VR professionals and paraprofessionals to achieve increased skill, knowledge, and competence in the area of assisting and supporting individuals with disabilities pursuing self-employment, business ownership, and telecommuting.

Priority 3—Innovative Rehabilitation Training Program, Field Initiated

A field-initiated project must clearly identify the topic to be addressed and provide sufficient evidence to demonstrate the need for the innovative rehabilitation training in a proposed new topic area or, in areas for which there is existing training, demonstrate that the existing training is not adequately meeting the needs of VR professionals, paraprofessionals, and individuals studying to become VR professionals and paraprofessionals.

The project must develop a new or substantially improved and, to the extent possible, evidence-based [2] training program, including stand-alone modules and instructional materials to be incorporated into an existing academic degree program for educating VR counselors or other VR professionals and paraprofessionals, or into short-term training for VR professionals, or both. The training program or modules must be developed by the end of the first year of the project period and piloted, refined, implemented, evaluated, and disseminated in years two, three, four, and five of the project period. A process for continuous feedback, evaluation, and improvement to ensure the training program or modules are responsive to the needs of the VR professionals and paraprofessionals throughout years two, three, four, and five must be included. This process may include evidence collected from surveys or success stories or other forms of evidence.

The training must be of sufficient scope, intensity, and duration for VR professionals, paraprofessionals, and individuals studying to become VR professionals and paraprofessionals to achieve increased skill, knowledge, and competence in the topic area.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does *not* solicit applications. In any year in which we choose to use one or more of these priorities, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

[1] For the purpose of this priority, ''evidence-based'' means the proposed project component is supported, at a minimum, by evidence that demonstrates a rationale (as defined in 34 CFR 77.1), where a key project component included in the project's logic model (as defined in 34 CFR 77.1) is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes (as defined in 34 CFR 77.1).

[2] For the purpose of this priority, ''evidence-based'' means the proposed project component is supported, at a minimum, by evidence that demonstrates a rationale (as defined in 34 CFR 77.1), where a key project component included in the project's logic model (as defined in 34 CFR 77.1) is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes (as defined in 34 CFR 77.1).

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3 (f) of Executive Order 12866.

Under Executive Order 13771, for each new rule that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866, and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2020, any new incremental costs associated with a new significant regulatory action must be fully offset by the elimination of existing costs through deregulatory actions. Because this regulatory action is not significant, the requirements of Executive Order 13771 do not apply.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final priorities only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We have also determined that this regulatory action would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities. The costs would include the time and effort in responding to the priorities for entities that choose to respond.

In addition, we have considered the potential benefits of this regulatory action and have noted these benefits in the background section of the NPP. The benefits include supporting the work of the State VR agencies in the Client Assistance Program (84.263D); assisting and supporting individuals with disabilities pursuing self-employment, business ownership, and telecommuting (84.263E); promoting field-initiated projects related to VR (84.263F); and tailoring the activities conducted under the priorities to reflect the greatest needs in the field.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

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Mark Schultz,

Commissioner, Rehabilitation Services Administration, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2020–16958 Filed 8–4–20; 4:15 pm]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

Final Waivers and Extension of the Project Period for the National Center for Information and Technical Support for Postsecondary Students With Disabilities Grant Program

AGENCY: Office of Postsecondary Education (OPE), Department of Education.

ACTION: Final waivers and extension of project period.

SUMMARY: The Secretary waives the requirements in the Education Department General Administrative Regulations that generally prohibit project periods exceeding five years and

project period extensions involving the obligation of additional Federal funds. The waivers and extension would enable the project under Catalog of Federal Domestic Assistance (CFDA) number 84.116D to receive funding for an additional period, not to exceed September 25, 2021.

DATES: The waivers and extension of the project period are effective August 6, 2020.

FOR FURTHER INFORMATION CONTACT: Shedita Alston, U.S. Department of Education, 400 Maryland Avenue SW, Room 260–24, Washington, DC 20202. Telephone: 202–453–7090. Email: *Shedita.Alston@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On December 16, 2014, Congress passed the Further Consolidated Appropriations Act, 2015 (2015 Appropriations Act), Public Law 113–235. As noted in the explanatory statement (2015 Appropriations Act Explanatory Statement) submitted by the chairman of the Committee on Appropriations for the U.S. House of Representatives regarding the 2015 Appropriations Act, the appropriations for the Department included $2,500,000 for a National Center for Information and Technical Support for Postsecondary Students with Disabilities (the Center), as authorized by section 777(a) of the of the Higher Education Act of 1965, as amended (HEA). *See* 160 Cong. Rec. H9307–01, H9841 (Dec. 11, 2014). Section 4 of the 2015 Appropriations Act provides that the 2015 Appropriations Act Explanatory Statement shall have the same effect with respect to the allocation of funds as if it were a joint explanatory statement of a committee of conference.

On June 19, 2015, the Department of Education (Department) published in the **Federal Register** (80 FR 35323) a notice inviting applications (2015 NIA) for projects for fiscal year (FY) 2015 under the National Center for Information and Technical Support for Postsecondary Students with Disabilities (NCITSPSD) competitive grant program. The purpose of the Center is to provide technical assistance and information on best and promising practices for students with disabilities as they transition to or attend postsecondary education.

In September 2015, the Department made one 48-month award to the Association on Higher Education and Disability for their project entitled the ''National Center for College Students with Disabilities.''

The Department granted the Center a no-cost extension in September 2019, extending the current project period for this grantee through September 25, 2020.

On December 20, 2019, Congress passed the Further Consolidated Appropriations Act, 2020 (2020 Appropriations Act), Public Law 116–94. As noted in the explanatory statement (2020 Appropriations Act Explanatory Statement) submitted by the chairwoman of the Committee on Appropriations for the U.S. House of Representatives regarding the 2020 Consolidated Appropriations Act, the appropriations for the Department included $500,000 for the operation of the Center authorized under section 777(a) of the HEA. *See* 165 Cong. Rec. H11061–01, H11083 (Dec. 17, 2019). Section 4 of the 2020 Appropriations Act provides that the 2020 Appropriations Act Explanatory Statement shall have the same effect with respect to the allocation of funds as if it were a joint explanatory statement of a committee of conference.

Final Waivers and Extension

The Department is waiving the requirements in 34 CFR 75.250, which prohibit project periods exceeding five years, and the requirements in 34 CFR 75.261(c)(2), which limit the extension of a project period if the extension involves the obligation of additional Federal funds. The waivers and extension would enable the project under CFDA number 84.116D to receive funding for an additional one year period, not to exceed September 25, 2021.

We are waiving these requirements to provide the necessary time and funding for the current grantee to complete outstanding project activities, as outlined in its 2015 grant. Completion of these activities, including a required biannual report to Congress, is necessary to fulfill the purpose of the program as outlined in the HEA. With the awarding of a supplement, the Center will be able to continue to provide technical assistance and information on best and promising practices for students with disabilities as they transition to or attend postsecondary education.

Additionally, the $500,000 amount that was appropriated under the 2020 Appropriations Act is only 20 percent of the amount provided by Congress for the program in FY 2015 and is insufficient to support a new, multiyear grant project period. We do not believe that it is the intent of Congress that the Department run a new grant program competition for the one year of funding appropriated by the 2020 Appropriations Act, as opposed to providing a supplement to the current grantee, because doing so would increase the burden on the potential applicants. Additionally, the comparatively nominal amount of funding that was appropriated for FY 2020 would create a great hardship for any newly funded applicant needing to bear responsibility for both start-up and operational costs, as well as other statutory requirements.

Under these waivers and extension of the project period—

(1) The current grantee is authorized to receive one continuation award.

(2) The Department will not announce a new competition or make new awards under the NCITSPSD competitive grant program in FY 2020.

(3) During the extension period, any activities carried out must be consistent with, or be a logical extension of, the scope, goals, and objectives of the grantee's approved application from the 2015 NCITSPSD competition.

(4) The grantee must also continue to comply with the requirements established in the program regulations and the 2015 NIA.

The waivers of 34 CFR 75.250(a) and 75.261(c)(2) do not affect the applicability of the requirements in 34 CFR 75.253 (continuation of a multiyear project after the first budget period) to the current grantee receiving a continuation award as a result of the waivers.

In addition, these waivers do not exempt the current grantee from the account-closing provisions in 31 U.S.C. 1552(a), nor do they extend the availability of funds previously awarded to the current grantee.

Waiver of Notice and Comment Rulemaking and Delayed Effective Date Under the Administrative Procedure Act

Under the Administrative Procedure Act (APA) (5 U.S.C. 553 *et seq.*) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, the APA provides that an agency is not required to conduct notice and comment rulemaking when the agency for good cause finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest. *See* 5 U.S.C. 553(b)(B).

As the Court found in *Metzenbaum* v. *Federal Energy Regulatory Commission,* 675 F.2d 1282, 1291 (D.C. Cir. 1982), the opportunity for notice and comment where there is no discretion is ''unnecessary.'' Id. (quoting 5 U.S.C. 553(b)(B)). The Court further stated that notice and comment for such a nondiscretionary action ''might even have been 'contrary to the public interest,' given the expense that would have been involved in a futile gesture.'' Id. *See also Lake Carriers' Ass'n* v. *E.P.A.,* 652 F.3d 1, 10 (D.C. Cir. 2011) (notice and comment rulemaking ''would have served no purpose'' where agency lacked the authority to amend or reject the conditions at issue). As this waiver and extension fulfills our understanding of congressional intent for the $500,000 appropriated in FY 2020 for the NCITSPSD grant program to go to the current grantee to fulfill the program's objectives during this fiscal year, the Department finds that there is similarly good cause to waive notice and comment rulemaking. The goals of the NCITSPSD grant program cannot be met by other potential applicants with the small amount of funding available for the NCITSPSD program in FY 2020.

The APA also requires that a substantive rule must be published at least 30 days before its effective date, except as otherwise provided for good cause (5 U.S.C. 553(d)(3)). In addition to the reasons stated above, a delayed effective date would be contrary to the public interest because it might prevent the waivers and extension from taking effect prior to the expiration of the current project period. Therefore, the Secretary waives the delayed effective date provision for good cause.

Regulatory Flexibility Act Certification

The Regulatory Flexibility Act does not apply to this rulemaking because there is good cause to waive notice and comment under 5 U.S.C. 553.

Paperwork Reduction Act of 1995

This notice of waivers and extension of project period does not contain any information collection requirements.

Intergovernmental Review

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

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Robert L. King,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2020–17145 Filed 8–4–20; 11:15 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2020–0003; FRL–10011–97–Region 4]

Air Plan Approval and Designation of Areas; Kentucky; Redesignation of the Jefferson County 2010 1-Hour Sulfur Dioxide Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In a letter dated December 9, 2019, the Commonwealth of Kentucky, through the Kentucky Division of Air Quality (KDAQ) on behalf of the Louisville Metro Air Pollution Control District (LMAPCD), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Jefferson County sulfur dioxide (SO_2) nonattainment area (hereinafter referred to as the ''Jefferson County Area'' or ''Area'') to attainment for the 2010 1-hour SO_2 primary national ambient air quality standard (NAAQS or standard) and to approve an accompanying state implementation plan (SIP) revision containing a maintenance plan for the Area. EPA is taking final action to determine that the Jefferson County Area has attained the 2010 1-hour SO_2 NAAQS; to approve the SIP revision containing the Commonwealth's plan for maintaining attainment of the 2010 1-hour SO_2 standard and to incorporate the maintenance plan into the SIP; and to redesignate the Jefferson County Area to attainment for the 2010 1-hour SO_2 NAAQS.

DATES: This rule is effective September 8, 2020.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2020–0003. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials can either be retrieved electronically via *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person 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 Federal holidays.

FOR FURTHER INFORMATION CONTACT: Madolyn Sanchez, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Sanchez may be reached by phone at (404) 562–9644 or via electronic mail at *sanchez.madolyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What is the background for the actions?

On June 2, 2010, EPA revised the primary SO_2 NAAQS, establishing a new 1-hour SO_2 standard of 75 parts per billion (ppb). *See* 75 FR 35520 (June 22,

2010).[1] Under EPA's regulations at 40 CFR part 50, the 2010 1-hour SO_2 NAAQS is met at a monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 ppb (based on the rounding convention in 40 CFR part 50, appendix T). *See* 40 CFR 50.17. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. A year meets data completeness requirements when all four quarters are complete, and a quarter is complete when at least 75 percent of the sampling days for each quarter have complete data. A sampling day has complete data if 75 percent of the hourly concentration values, including state-flagged data affected by exceptional events which have been approved for exclusion by the Administrator, are reported.[2]

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the NAAQS. EPA designated the Jefferson County Area as nonattainment for the 2010 1-hour SO_2 NAAQS, effective on October 4, 2013, based on 2009–2011 complete, quality assured, and certified ambient air quality data. *See* 78 FR 47191 (August 5, 2013). Under the CAA, nonattainment areas must attain the NAAQS as expeditiously as practicable but not later than five years after the October 4, 2013, effective date of the designation. *See* CAA section 192(a). Therefore, the Jefferson County Area's applicable attainment date was no later than October 4, 2018.

EPA's 2010 SO_2 nonattainment designation for the Area triggered an obligation for Kentucky to develop a nonattainment SIP revision addressing certain requirements under title I, part D, subpart 1 (hereinafter ''Subpart 1''), and to submit that SIP revision to EPA in accordance with the deadlines in title I, part D, subpart 5 (hereinafter ''Subpart 5''). Subpart 1 contains the general requirements for nonattainment areas for criteria pollutants, including requirements to develop a SIP that provides for the implementation of reasonably available control measures, requires reasonable further progress, includes base-year and attainment-year emissions inventories, includes a SIP-approved nonattainment new source review (NNSR) permitting program, requires enforceable emission limitations and other such control measures, and provides for the implementation of contingency measures. This SIP revision was due within 18 months following the October 4, 2013, effective date of designation (*i.e.,* April 4, 2015). *See* CAA section 191(a). Kentucky submitted a nonattainment SIP revision to EPA on June 23, 2017.[3]

On June 28, 2019 (84 FR 30920), EPA approved Kentucky's June 23, 2017, SO_2 nonattainment SIP revision. EPA determined that the nonattainment SIP revision met the applicable requirements of sections 110, 172, 191, and 192 of the CAA and nonattainment regulatory requirements at 40 CFR part 51 (including Kentucky's attainment modeling demonstration for the Jefferson County Area). The attainment modeling demonstration inputs included SO_2 emission limits and compliance parameters (monitoring, recordkeeping, and reporting) at Mill Creek established in the facility's title V permit 145–97–TV(R3) at Plant-wide Specific conditions S1-Standards, S2-Monitoring and Record Keeping, and S3-Reporting. EPA incorporated these limits and parameters into the SIP as part of its final action on Kentucky's nonattainment SIP revision, thus making them permanent and enforceable controls.

On December 9, 2019, Kentucky submitted a request to EPA for redesignation of the Jefferson County Area to attainment for the 2010 1-hour SO_2 NAAQS and a related SIP revision containing a maintenance plan for the Area. In a notice of proposed rulemaking (NPRM) published on May 15, 2020 (85 FR 29381), EPA proposed to determine that the Area attained the 2010 1-hour SO_2 NAAQS; to approve the maintenance plan for the Area as meeting the maintenance plan requirements of CAA section 175A and to incorporate it into the SIP; and to approve Kentucky's request for redesignation of the Area from nonattainment to attainment for the 2010 1-hour SO_2 NAAQS as meeting the redesignation requirements of CAA section 107(d)(3)(E). Comments on the May 15, 2020, NPRM were due on or before June 15, 2020. No comments were received. The details of Kentucky's submittal and the rationale for EPA's actions are further explained in the May 15, 2020, NPRM, including the modeled attainment demonstration and quality-assured, complete, and certified 2016–2018 ambient air monitoring data used to determine attainment with the 2010 1-hour SO_2 NAAQS. Recent quality-assured, complete, and certified 2017–2019 ambient air monitoring data at 15 ppb confirm that this area is still demonstrating attainment of the 2010 1-hour SO_2 NAAQS.

II. What are the effects of these actions?

Approval of the redesignation request changes the legal designation of the Jefferson County Area, found at 40 CFR 81.318, from nonattainment to attainment for the 2010 1-hour SO_2 NAAQS. Approval of Kentucky's associated SIP revision also incorporates a maintenance plan into the SIP for maintaining the 2010 1-hour SO_2 NAAQS in the Jefferson County Area as described in the May 15, 2020, NPRM. The maintenance plan also establishes contingency measures to remedy any future violations of the 2010 1-hour SO_2 NAAQS and procedures for evaluation of potential violations.

EPA is finalizing the redesignation of the Jefferson County Area to attainment for the 2010 1-hour SO_2 NAAQS and finalizing the approval of the CAA section 175A maintenance plan for the 2010 1-hour SO_2 NAAQS. The Area is required to implement the CAA section 175A maintenance plan for the 2010 1-hour SO_2 NAAQS that is being approved in this action and the prevention of significant deterioration program for the 2010 1-hour SO_2 NAAQS. The approved maintenance plan can only be revised if the revision meets the requirements of CAA section 110(l) and, if applicable, CAA section 193.

III. Final Actions

EPA is taking final actions regarding Kentucky's request to redesignate the Jefferson County Area to attainment for the 2010 1-hour SO_2 NAAQS and associated SIP revision. EPA is determining that the Jefferson County Area has attained the 2010 1-hour SO_2 NAAQS. EPA is also approving the SIP revision containing the Commonwealth's plan for maintaining attainment of the 2010 1-hour SO_2 standard and incorporating the maintenance plan into the SIP. Finally, EPA is approving Kentucky's

[1] On February 25, 2019, EPA retained the existing 2010 primary NAAQS for SO_2 of 75 ppb based on the 3-year average of the 99th percentile of the annual distribution of 1-hour daily maximum concentrations. *See* 84 FR 9866.

[2] *See* 40 CFR part 50, appendix T, section 3(b).

[3] EPA published a notice on March 18, 2016 (81 FR 14736), announcing its finding that Kentucky (and other pertinent states) had failed to submit the required SO_2 nonattainment plan by the submittal deadline. The finding initiated a deadline under CAA section 179(a) for the potential imposition of NNSR offset and highway funding sanctions. However, pursuant to Kentucky's submittal of June 23, 2017 (received by EPA on July 6, 2017), and EPA's subsequent letter dated October 10, 2017, to Kentucky finding the submittal to be complete and noting the termination of these sanctions deadlines, the sanctions under section 179(a) were not and will not be imposed as a result of Kentucky having missed the April 4, 2015, submittal deadline.

redesignation request and redesignating the Jefferson County Area to attainment for the 2010 1-hour SO_2 NAAQS. As mentioned above, approval of the redesignation request changes the official designation of the Jefferson County Area from nonattainment to attainment, as found in 40 CFR part 81.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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, these actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For these reasons, these actions:

- Are not significant regulatory actions 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);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because these actions are not significant regulatory actions under Executive Order 12866;
- Do not impose information collection burdens under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are 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
- Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

These actions are 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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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 October 5, 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, Incorporation by reference, Intergovernmental relations, Sulfur dioxide, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: July 13, 2020.

Mary Walker,

Regional Administrator, Region 4.

Therefore, for the reasons stated in the preamble, EPA amends 40 CFR parts 52 and 81 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart S—Kentucky

■ 2. In § 52.920 amend the table in paragraph (e) by adding an entry for ''2010 1-hour SO_2 Maintenance Plan for the Jefferson County Area'' at the end of the table to read as follows:

§ 52.920 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanations
*	*	*	*	*
2010 1-hour SO_2 Maintenance Plan for the Jefferson County Area.	Jefferson County	12/9/2019	8/6/2020, [Insert citation of publication].	

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. In § 81.318, amend the table entitled ''Kentucky-2010 Sulfur Dioxide NAAQS [Primary]'' by revising the entry for ''Jefferson County, KY'' to read as follows:

§ 81.318 Kentucky.

* * * * *

KENTUCKY-2010 SULFUR DIOXIDE NAAQS [PRIMARY]

Designated area [4]	Designation	
	Date [1]	Type
* * * * *	*	*
Jefferson County, KY [2]	8/6/2020	Attainment
Jefferson County (part):		
That portion of Jefferson County encompassed by the polygon with the vertices using Universal Traverse Mercator (UTM) coordinates in UTM zone 16 with datum NAD83 as follows:.		
(1) Ethan Allen Way extended to the Ohio River at UTM Easting (m) 595738, UTM Northing 4214086 and Dixie Highway (US60 and US31W) at UTM Easting (m) 597515, UTM Northing 4212946;.		
(2) Along Dixie Highway from UTM Easting (m) 597515, UTM Northing 4212946 to UTM Easting (m) 595859, UTM Northing 4210678;.		
(3) Near the adjacent property lines of Louisville Gas and Electric-Mill Creek Electric Generating Station and Kosmos Cement where they join Dixie Highway at UTM Easting (m) 595859, UTM Northing 4210678 and the Ohio River at UTM Easting (m) 595326, UTM Northing 4211014;.		
(4) Along the Ohio River from UTM Easting (m) 595326, UTM Northing 4211014 to UTM Easting (m) 595738, UTM Northing 4214086.		
* * * * *	*	*

[1] This date is April 9, 2018, unless otherwise noted.
[2] Excludes Indian country located in each area, if any, unless otherwise specified.
[3] Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
[4] Webster County and the remainder of Henderson County will be designated by December 31, 2020.

* * * * *

[FR Doc. 2020–15598 Filed 8–5–20; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2020–0005; Internal Agency Docket No. FEMA–8639]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

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

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

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

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

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities.

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

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

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

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

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

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

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Region III				
Pennsylvania:				
Benton, Township of, Lackawanna County.	421749	May 11, 1981, Emerg; June 1, 1986, Reg; August 5, 2020, Susp..	August 5, 2020	August 5, 2020.
Blakely, Borough of, Lackawanna County.	420525	March 2, 1973, Emerg; January 16, 1980, Reg; August 5, 2020, Susp..	.....do	Do.
Covington, Township of, Lackawanna County.	422455	April 25, 1979, Emerg; September 1, 1986, Reg; August 5, 2020, Susp..	.....do	Do.
Dalton, Borough of, Lackawanna County.	420998	June 6, 1973, Emerg; November 1, 1978, Reg; August 5, 2020, Susp..	.....do	Do.
Dunmore, Borough of, Lackawanna County.	420529	March 19, 1974, Emerg; September 28, 1979, Reg; August 5, 2020, Susp..	.....do	Do.
Elmhurst, Township of, Lackawanna County.	421752	July 6, 1979, Emerg; February 2, 1990, Reg; August 5, 2020, Susp..	.....do	Do.
Fell, Township of, Lackawanna County.	421753	August 7, 1975, Emerg; September 30, 1981, Reg; August 5, 2020, Susp..	.....do	Do.
Glenburn, Township of, Lackawanna County.	421754	March 10, 1976, Emerg; November 2, 1990, Reg; August 5, 2020, Susp..	.....do	Do.
Greenfield, Township of, Lackawanna County.	422456	December 27, 1979, Emerg; July 16, 1990, Reg; August 5, 2020, Susp..	.....do	Do.
Jefferson, Township of, Lackawanna County.	422457	September 4, 1980, Emerg; June 1, 1986, Reg; August 5, 2020, Susp..	.....do	Do.
Jessup, Borough of, Lackawanna County.	420531	April 4, 1974, Emerg; April 15, 1980, Reg; August 5, 2020, Susp..	.....do	Do.
Mayfield, Borough of, Lackawanna County.	420532	April 16, 1975, Emerg; September 30, 1981, Reg; August 5, 2020, Susp..	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Newton, Township of, Lackawanna County.	421756	July 2, 1979, Emerg; July 3, 1990, Reg; August 5, 2020, Susp..	.....do	Do.
North Abington, Township of, Lackawanna County.	422460	February 3, 1976, Emerg; August 10, 1979, Reg; August 5, 2020, Susp..	.....do	Do.
Old Forge, Borough of, Lackawanna County.	420535	July 25, 1974, Emerg; October 16, 1979, Reg; August 5, 2020, Susp..	.....do	Do.
Scott, Township of, Lackawanna County.	421757	January 19, 1979, Emerg; May 17, 1990, Reg; August 5, 2020, Susp..	.....do	Do.
Scranton, City of, Lackawanna County.	420538	January 12, 1973, Emerg; August 15, 1980, Reg; August 5, 2020, Susp..	August 5, 2020	August 5, 2020.
South Abington, Township of, Lackawanna County.	421758	July 29, 1975, Emerg; December 15, 1982, Reg; August 5, 2020, Susp..	.....do	Do.
Taylor, Borough of, Lackawanna County.	420539	March 26, 1974, Emerg; August 15, 1980, Reg; August 5, 2020, Susp..	.....do	Do.
Throop, Borough of, Lackawanna County.	420540	April 5, 1974, Emerg; September 28, 1979, Reg; August 5, 2020, Susp..	.....do	Do.
Waverly, Township of, Lackawanna County.	422453	January 14, 1976, Emerg; September 30, 1981, Reg; August 5, 2020, Susp..	.....do	Do.
Region V				
Illinois: Prairie du Rocher, Village of, Randolph County.	170578	June 25, 1974, Emerg; September 4, 1985, Reg; August 5, 2020, Susp..	.....do	Do.

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

Katherine B. Fox,

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

[FR Doc. 2020–16400 Filed 8–5–20; 8:45 am]

BILLING CODE 9110–12–P

SURFACE TRANSPORTATION BOARD

49 CFR Parts 1011 and 1111

[Docket No. EP 756]

Market Dominance Streamlined Approach

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (STB or Board) is adopting a final rule to establish a streamlined approach for pleading market dominance in rate reasonableness proceedings.

DATES: The rule is effective on September 5, 2020.

FOR FURTHER INFORMATION CONTACT: Sarah Fancher at (202) 245–0355. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Rail shippers may challenge the reasonableness of a rail carrier's common carrier rate by filing a formal complaint with the Board. *See* 49 U.S.C. 10701(d); 49 U.S.C. 10702; 49 U.S.C. 10704(b); 49 CFR pt. 1111. However, before the Board is permitted to determine if the rate is reasonable, it must first find that the rail carrier has market dominance over the transportation to which the rate applies. 49 U.S.C. 10707(b), (c). Market dominance is defined as ''an absence of effective competition from other rail carriers or modes of transportation for the transportation to which a rate applies.'' 49 U.S.C. 10707(a). It is established Board precedent that the burden is on the complainant to demonstrate market dominance. *See, e.g., Total Petrochems. & Ref. USA, Inc.* v. *CSX Transp., Inc.,* NOR 42121, slip op. at 28 (STB served May 31, 2013) (with Board Member Begeman dissenting on other matters) *updated* (STB served Aug. 19, 2013.)

The agency has previously recognized the Congressional intent expressed in the market dominance statute and its legislative history, which ''envision[s] the market dominance determination simply as a practical threshold jurisdictional determination to be made without lengthy litigation or administrative delay.'' *Westmoreland Coal Sales Co.* v. *Denver & Rio Grande W. R.R.,* 5 I.C.C.2d 751, 754 (1989) (discussing 49 U.S.C. 10709, the predecessor of the current section 10707). In practice, however, the market dominance inquiry has often become a costly and time-consuming undertaking, resulting in a significant burden on rate case litigants. In smaller rate cases, in particular, the expense associated with the market dominance inquiry may be disproportionate to the remedy sought.

Accordingly, in a notice of proposed rulemaking issued on September 12, 2019, the Board proposed a streamlined market dominance inquiry. *Market Dominance Streamlined Approach* (*NPRM*), EP 756 (STB served Sept. 12, 2019).[1] Specifically, the Board proposed a set of factors that, if they could be demonstrated by the complainant, would establish a prima facie showing of market dominance.

The Board received numerous comments on the *NPRM*.[2] After

[1] The proposed rule was published in the **Federal Register**, 84 FR 48,882 (Sept. 17, 2019).

[2] The Board received comments and/or reply comments from the following entities: The American Chemistry Council, The Fertilizer Institute, the National Industrial Transportation League, the Chlorine Institute, and the Corn Refiners Association (collectively, the Coalition Associations); the American Fuel & Petrochemical Manufacturers (AFPM); the Association of American Railroads (AAR); BNSF Railway Company (BNSF); Canadian National Railway

Continued

considering the comments, the Board will adopt its proposal with the modifications discussed below.

Background

In January 2018, the Board established its Rate Reform Task Force (RRTF), with the objectives of developing recommendations to reform and streamline the Board's rate review processes for large cases and determining how to best provide a rate review process for smaller cases. After holding informal meetings throughout 2018, the RRTF issued a report on April 25, 2019 (RRTF Report), which recommended, among other things, that the Board develop ''a standard for pleading market dominance that will reduce the cost and time of bringing a rate case.'' RRTF Report 53. The RRTF concluded that an effort to streamline the market dominance inquiry was a necessary part of making rate relief available for smaller rate disputes. *Id.* at 52. After considering the RRTF Report and broader market dominance issues, *see NPRM,* EP 756, slip op. at 3–6, the Board issued the *NPRM* proposing a streamlined approach for pleading market dominance in rate reasonableness proceedings.

The Board's market dominance inquiry comprises two components: A quantitative threshold and a qualitative analysis. The statute establishes a conclusive presumption that a railroad does not have market dominance if the rate charged produces revenues that are less than 180% of its variable costs [3] of providing the service. *See* 49 U.S.C. 10707(d)(1)(A). However, a finding by the Board that a movement's R/VC ratio is 180% or greater does not establish a presumption that the rail carrier providing the transportation has market dominance over the movement. *See* 49 U.S.C. 10707(d)(2)(A). Accordingly, if the quantitative 180% R/VC threshold is met, the Board moves to the second component, a qualitative analysis of market dominance. In this analysis, the Board determines whether there are any feasible transportation alternatives sufficient to constrain the railroad's rates for the traffic to which the challenged rates apply (the issue traffic). *See, e.g., M&G Polymers 2012,* NOR 42123, slip op. at 2, 11–18; *Consumers Energy Co.* v. *CSX Transp., Inc.,* NOR 42142, slip op. at 287–98 (STB served Jan. 11, 2018).

As explained in the *NPRM,* EP 756, slip op. at 5–6, it is well established that the Board has the authority to review and modify its rate reasonableness methodologies and processes—including its market dominance inquiry—to ensure that they remain accessible to the complainants that are entitled to use them.[4] The *NPRM* described the Board's underlying reasons for its proposal: The time and cost associated with an evidentiary process that ''requires the complainant to prove a negative proposition on opening—that intermodal and intramodal competition are not effective constraints on rail rates''; the fact that such expense may be particularly out of balance with the remedy being sought in smaller rate cases; and that the time and cost of the market dominance inquiry could itself be a barrier to rate relief. *NPRM,* EP 756, slip op. at 3–4. The *NPRM* also described how its proposed streamlined market dominance approach would further the rail transportation policy (RTP) at 49 U.S.C. 10101 and would be consistent with clear Congressional directives in both that statutory provision and also the Surface Transportation Board Reauthorization Act of 2015, Public Law 114–110, 129 Stat. 2228. *NPRM,* EP 756, slip op. at 4–5.

With respect to the proposed streamlined market dominance approach, the *NPRM* proposed factors that, if demonstrated by the complainant, would constitute a prima facie showing of market dominance. The Board reasoned that the presence of these factors would constitute ''significant evidence about the status of effective competition,'' both intramodal and intermodal. *NPRM,* EP 756, slip op. at 7. However, the Board also explained that, under the proposed streamlined approach, rail carriers would still be ''permitted to refute any of the prima facie factors of the complainant's case, or otherwise show that effective competition exists for the traffic at issue.'' *Id.* at 12. The Board concluded that the proposed approach would ''have the benefit of reducing the complexity of market dominance presentations for many complainants without limiting railroads' ability to mount a thorough defense.'' *Id.*

The prima facie factors proposed in the *NPRM* are as follows:

- The movement has an R/VC ratio of 180% or greater;
- The movement would exceed 500 highway miles between origin and destination;
- There is no intramodal competition from other railroads;
- There is no barge competition;
- The complainant has used truck for 10% or fewer of its movements subject to the rate at issue over a five-year period; and
- The complainant has no practical build-out alternative due to physical, regulatory, financial, or other issues (or combination of issues).

Id. at 6–7. For the factors pertaining to intramodal competition, barge competition, and build-out alternatives, the *NPRM* proposed that complainants could submit a verified statement from an appropriate official attesting that the complainant does not have such competitive options, or could otherwise demonstrate that those factors are met. *Id.* at 8, 10–11.

To further streamline the market dominance inquiry, the *NPRM* proposed that complainants would be allowed to request an on-the-record, telephonic hearing with an Administrative Law Judge (ALJ) at the rebuttal phase of the rate proceeding. *Id.* at 12. The purpose of the hearing would be to allow the parties to clarify their market dominance positions under oath, and to build upon issues presented by the parties through critical and exacting questioning. *Id.* The *NPRM* also proposed a 50-page limit (inclusive of exhibits and verified statements) on the parties' replies and rebuttals. *Id.*

The Board did not propose to limit the types of rate proceedings in which

Company (CN); CSX Transportation, Inc. (CSXT); Farmers Union of Minnesota, Farmers Union of Montana, Farmers Union of North Dakota, Farmers Union of South Dakota, and Farmers Union of Wisconsin (collectively, Farmers Union); Freight Rail Customer Alliance (FRCA); Indorama Ventures (Indorama); Industrial Minerals Association—North America (IMA–NA); Institute of Scrap Recycling Industries, Inc. (ISRI); MillerCoors; National Coal Transportation Association (NCTA); National Grain and Feed Association (NGFA); National Taxpayers Union (NTU); Norfolk Southern Railway Company (NSR); Olin Corporation (Olin); Portland Cement Association (PCA); Private Railcar Food and Beverage Association (PRFBA); Steel Manufacturers Association (SMA); Union Pacific Railroad Company (UP); U.S. Department of Agriculture; and Western Coal Traffic League (WCTL). The Board also received a joint comment from several members of the Committee for a Study of Freight Rail Transportation and Regulation of the Transportation Research Board (referred to collectively as the TRB Professors), as well an individual comment and reply from one member of that committee, Dr. Jerry Ellig (Dr. Ellig). That committee issued a report titled *Modernizing Freight Rail Regulation* (*TRB Report*) in 2015. *See* Nat'l Acads. of Sciences, Eng'g, & Med., *Modernizing Freight Rail Regulation* (2015), *http://nap.edu/21759*.

[3] Variable costs are those railroad costs of providing service that vary with the level of output. *See M&G Polymers USA, LLC* v. *CSX Transp., Inc.,* NOR 42123, slip op. at 2 n.4 (STB served Sept. 27, 2012) *corrected and updated,* (STB served Dec. 7, 2012) (*M&G Polymers 2012*). The comparison of revenues to variable costs, reflected as a percentage figure, is known as a revenue-to-variable cost (R/VC) ratio. *Id.*

[4] *See, e.g., Rate Reg. Reforms,* EP 715, slip op. at 1–2 (STB served Mar. 13, 2015); *Simplified Standards for Rail Rate Cases,* EP 646 (Sub-No. 1) (STB served Sept. 5, 2007), *aff'd sub nom. CSX Transp., Inc.* v. *STB,* 568 F.3d 236 (D.C. Cir. 2009), *vacated in part on reh'g,* 584 F.3d 1076 (D.C. Cir. 2009).

complainants could utilize the streamlined market dominance approach.[5] Under the proposal, complainants would have the option to utilize the proposed streamlined market dominance approach or the non-streamlined market dominance approach. The Board stated that ''[i]f a complainant determines that it is not able to demonstrate one of the required factors, it would not choose this streamlined approach at the beginning of the case, but would instead need to choose a non-streamlined market dominance presentation with additional detailed information about its transportation options.'' *NPRM,* EP 756, slip op. at 11.

Final Rule

After considering the comments, the Board will adopt the rule proposed in the *NPRM,* with minor modifications. Below, the Board addresses the comments and discusses the modifications being adopted in the final rule. In Part I, the Board addresses general comments on the purpose of the rule. In Part II, the Board addresses comments regarding the prima facie factors proposed in the *NPRM,* proposals from commenters for other factors, and other suggested approaches to streamline the market dominance inquiry. In Part III, the Board addresses procedural issues. Lastly, in Part IV, the Board addresses other miscellaneous arguments. The text of the final rule is below.

Part I—Purpose of the Rule

None of the commenters challenge the Board's authority to adopt a streamlined market dominance approach based on a set of prima facie factors, though some question whether certain aspects of the proposal are consistent with particular statutory provisions and the RTP.

Some rail interests generally support streamlining the market dominance inquiry, but suggest revisions to the proposal. (AAR Comment 1; CSXT Comment 2; NSR Comment 1 (adopting AAR's comment); CN Comment 1 (stating support for AAR's comment).) Other rail commenters do not oppose a streamlined market dominance approach but argue that its use should be limited to only smaller cases and also suggest revisions. (UP Comment 1–2; BNSF Comment 2.)

In addition, UP and BNSF question whether such an approach is beneficial or necessary. UP expresses doubt that the streamlined approach would prove worthwhile or attractive to shippers, as the Board anticipated in the *NPRM* that only one additional complaint would be filed annually based on adoption of the streamlined approach. (UP Comment 3.) UP states that a streamlined approach would not be useful because, when market dominance is clear, railroads do not contest market dominance, and when market dominance is a close case, shippers would not be able to use the streamlined approach because there would be some evidence of effective competition. (*Id.* at 3–4.) Nonetheless, UP recognizes that the Board's proposal could provide shippers in small cases with inexpensive guidance on the likely outcome of a market dominance inquiry. (*Id.* at 4.)

BNSF comments that competition is already pervasive in rail markets and discusses how it competes with multi-modal movements. (BNSF Comment 2–8; BNSF Reply, V.S. Miller 2–12.) BNSF also argues that product and geographic competition, even if not considered by the Board, are pervasive in rail markets and that ''[g]eographic competition is particularly strong in agricultural markets,'' because farmers must truck their product to elevators, which gives farmers a range of transportation options, and because shippers can choose to ship product to different export markets. (BNSF Comment 6–7; BNSF Reply, V.S. Miller 6–9.) BNSF states that the Board should avoid interfering with these market-based rates, as it could distort the markets of BNSF's shippers and affect BNSF's capital investments which, it argues, would adversely impact ''all shippers that rely on efficient rail transportation service.'' (BNSF Reply, V.S. Miller 12–14.)

Shippers and shipper groups agree with the *NPRM*'s conclusion that the streamlined market dominance approach would reduce burdens on parties, expedite proceedings, and make the Board's rate relief procedures more accessible. (*See, e.g.,* AFPM Comment 1, 3; Coalition Associations Comment 4–5; SMA Comment 10; MillerCoors Comment 12; Indorama Comment 10; IMA–NA Comment 10; Olin Comment 4–5.) The Coalition Associations dispute UP's and BNSF's assertions that streamlining would be generally unnecessary. (Coalition Associations Reply 4.) They claim that, even in cases where market dominance is clear, railroads' concessions of market dominance are the exception, not the rule. (*Id.* at 8.) They point to *Sunbelt Chlor Alkali Partnership* v. *Norfolk Southern Railway,* Docket No. NOR 42130, as an example, noting that there the railroad conceded market dominance only after the complainant filed extensive evidence, despite the shipper having submitted a request for admission on market dominance before evidentiary filings were due. (Coalition Associations Reply 8–9; *see also* Olin Comment 4–5 (explaining that the complainant in the *Sunbelt* proceeding included dozens of pages and statements from three witnesses addressing why theoretical alternatives would not work on opening, only for the railroad to concede market dominance in a single sentence on reply).) The Coalition Associations also assert that BNSF's argument that competition is pervasive in the transportation market, even if true, does not diminish the need for a streamlined approach in those instances where effective competition is absent. (Coalition Associations Reply 14.)

None of the criticisms described above warrant abandonment of the proposal. Although BNSF and UP contend that the streamlined market dominance approach will not have much benefit and is not necessary, they also state that they do not oppose a streamlined market dominance approach (at least in smaller cases). Further, as explained in the *NPRM,* EP 756, slip op. at 3–4, the market dominance inquiry for rate reasonableness cases is a costly and time-consuming undertaking and can limit access to the Board's processes, particularly affecting access in smaller cases. Numerous shippers agree that streamlining the market dominance inquiry would make the rate reasonableness review processes more accessible to shippers by reducing the

[5] The Board's general standards for judging the reasonableness of rail freight rates, including the stand-alone cost test (referred to as Full-SAC), are set forth in *Coal Rate Guidelines, Nationwide,* 1 I.C.C.2d 520 (1985), *aff'd sub nom. Consol. Rail Corp* v. *United States,* 812 F.2d 1444 (3d Cir. 1987), as modified in *Major Issues in Rail Rate Cases,* EP 657 (Sub-No. 1) (STB served Oct. 30, 2006), *aff'd sub nom. BNSF Railway* v. *STB,* 526 F.3d 770 (D.C. Cir. 2008), and *Rate Regulation Reforms,* EP 715 (STB served July 18, 2013), *petition granted in part sub nom. CSX Transp., Inc.* v. *STB,* 754 F.3d 1056 (D.C. Cir. 2014). Complainants also have the option of challenging the rate under one of the Board's simplified processes—the Simplified SAC test or Three Benchmark methodology—as set forth in *Simplified Standards,* EP 646 (Sub-No. 1) (STB served Sept. 5, 2007) *aff'd sub nom. CSX Transp., Inc.* v. *STB,* 568 F.3d 236 (D.C. Cir. 2009), and *vacated in part on reh'g, CSX Transp., Inc.* v. *STB,* 584 F.3d 1076 (D.C. Cir. 2009), as modified in *Rate Regulation Reforms,* EP 715 (STB served July 18, 2013), *remanded in part sub nom. CSX Transp., Inc.* v. *STB,* 754 F.3d 1056 (D.C. Cir. 2014). The *NPRM* was issued concurrently with a separate notice of proposed rulemaking in *Final Offer Rate Review,* EP 755 et al. (STB served Sept. 12, 2019), in which the Board proposed an alternative procedure (Final Offer Rate Review or FORR) for challenging the reasonableness of rates in smaller cases, which would require complainants to utilize the proposed streamlined market dominance approach. *Id.* at 9. That proposal remains under review.

litigation burden in some cases. (*See* AFPM Comment 1–2; Coalition Associations Comment 2–3; IMA–NA Comment 1; Indorama Comment 1; NGFA Comment 2; MillerCoors Comment 1; Olin Comment 1–2; PCA Comment 1; SMA Comment 1.)

UP claims that railroads do not contest market dominance when market dominance is clear, but, as the Coalition Associations and Olin note, and as the experience in *Sunbelt* shows, a complainant may nevertheless bear significant cost and time burdens preparing and submitting extensive evidence before a railroad concedes market dominance. A streamlined market dominance approach would prove beneficial, including in cases where a railroad ultimately concedes market dominance, by easing the cost and time burdens complainants must bear for the preparation and submission of evidentiary pleadings. As for BNSF's assertion that competition is already pervasive in the marketplace due, in part, to product and geographic competition,[6] there is no dispute that some shippers lack effective competition. The streamlined approach adopted here should make the Board's rate reasonableness review processes more accessible to shippers when market dominance is more readily apparent.[7]

The Board also finds unpersuasive BNSF's argument that the streamlined approach could interfere with market-based rates. The final rule does not create a new right or remedy that did not previously exist but simply offers a streamlined way to demonstrate market dominance. The final rule does not impose a new limit on the type of relevant evidence a rail carrier can submit on reply to attempt to rebut a complainant's market dominance case. Further, the rule does not modify the Board's rate reasonableness methodologies. Accordingly, the Board does not expect the final rule to change the outcome that would have been reached under the non-streamlined market dominance approach. Rather, it expects the rule to decrease the burden in potentially meritorious cases, including the burden concerning a demonstration of market dominance that may otherwise unnecessarily limit the accessibility of the Board's rate review processes and therefore dissuade shippers from filing cases. As such, there is no basis for the suggestion that the streamlined approach would result in shippers obtaining rate relief that would inappropriately interfere with market-based rates.

For these reasons, the Board finds that a streamlined approach would further the RTP goal of maintaining reasonable rates where there is an absence of effective competition, *see* section 10101(6), by reducing the burden on complainants in certain rate cases. This in turn will make the agency's rate reasonableness review processes more accessible, particularly in smaller cases. Moreover, the streamlined approach would continue to ensure that the Board determines the reasonableness of rates only where there is actual market dominance, consistent with section 10101(1) (allowing, to the maximum extent possible, competition and the demand for services to establish reasonable transportation rates) and section 10101(5) (fostering sound economic conditions in transportation and ensuring effective competition and coordination between rail carriers and other modes).

Part II—Prima Facie Factors

As discussed below, the Board will adopt the prima facie factors largely as proposed in the *NPRM.* The Board will add language to the regulations to clarify the term ''appropriate official,'' to clarify the method of measuring the level of truck movements over a five-year period, and to include a factor to account for intermodal competition from pipelines.

A. R/VC of 180% or Greater

The Board proposed a prima facie factor that the movement has an R/VC ratio of 180% or greater. *NPRM,* EP 756, slip op. at 7. The Board proposed this factor because it is a statutory requirement, 49 U.S.C. 10707(d), and therefore must be established in any market dominance inquiry.

The Board received few comments pertaining to this proposed factor. The TRB Professors argue, as they did in the *TRB Report,* that the Board's Uniform Railroad Costing System (URCS)—which is used to calculate the variable costs for the R/VC ratio[8]—is flawed and, as a result, the R/VC ratios are unreliable. However, they acknowledge that, because the R/VC calculation is a statutory requirement that can only be eliminated through legislative change, the Board is required to use an R/VC ratio in the market dominance inquiry. (TRB Professors Comment 2–3.) NGFA states that it shares the criticisms of URCS and accordingly urges the Board to continue its efforts to improve URCS and/or develop a new and improved means to calculate the statutorily required R/VC ratio. (NGFA Comment 3.)

Use of the R/VC of 180% or greater is a statutory requirement, and the Board will adopt this aspect of the proposal.[9]

B. Movement Length Greater Than 500 Highway Miles

The Board also proposed a prima facie factor that the movement exceed 500 highway miles between origin and destination. *NPRM,* EP 756, slip op. at 7. The Board reasoned that movements greater than 500 miles are not likely to have competitive trucking options, as this is approximately the length of haul that a trucking carrier could complete in one day. *Id.* (citing *Review of Commodity, Boxcar, & TOFC/COFC Exemptions,* EP 704 (Sub-No. 1), slip op. at 7 n.12 (STB served Mar. 23, 2016)). Therefore, the Board proposed the 500-mile threshold as indicative of a movement that is more likely to be served by a market dominant rail carrier. The Board also invited comment on whether the mileage threshold could be varied by commodity groups and asked parties to provide detailed quantitative and qualitative information in support of any alternative mileage threshold. *Id.* at 8. The Board received comments relating to the appropriate mileage threshold, varying the threshold by commodity, and application to multi-rail carrier and transload shipments, which are addressed in turn below.

1. 500-Mile Threshold

Several shipper interests contend that the mileage threshold should be lowered to 250 miles, arguing that this

[6] Railroad arguments for inclusion of a prima facie factor that addresses product and geographic competition are discussed below in Part II (subpart G, section 5, ''Product and Geographic Competition'').

[7] UP notes that the agency previously tried to use presumptions in the market dominance analysis but eventually abandoned the approach. (UP Comment 3.) Here, presumptions are not being utilized as the streamlined market dominance approach requires a shipper to put forth an evidentiary showing to make its prima facie case for market dominance. Moreover, those presumptions were markedly different from the factors finalized here and were ultimately abandoned because of flaws with the presumptions themselves. *See Mkt. Dominance Determinations & Consideration of Prod. Competition,* 365 I.C.C. 118, 120–26 (1981).

[8] Variable costs are calculated using the URCS Phase III movement costing program, which requires the user to input certain information about the particular movement. Although disputes sometimes arise over these inputs that are used to calculate URCS, these disputes are generally less complicated than disputes regarding the qualitative component of the market dominance inquiry. This is because the inputs relate to objective data whereas the qualitative portion usually involves the presentation of more subjective arguments.

[9] To the extent that the parties raise general concerns regarding URCS, such issues are beyond the scope of this proceeding.

is the maximum distance that a truck driver could travel in a single day, given the need for a return trip and hours-of-service regulations mandated by the Federal Motor Carrier Safety Administration (FMCSA). (Coalition Associations Comment 12; ISRI Comment 7–8; Indorama Comment 11–12; *see also* Olin Comment 7; NGFA Reply 6; AFPM Comment 5.) Indorama states that, based on its experience, truck is unable to compete with rail at distances over 250 miles, in part because a railcar can carry four times the amount that a truck can carry and because per-mile trucking costs are increasing. (Indorama Comment 11–12.) The Coalition Associations and ISRI both note that they tried to collect data on an appropriate mileage threshold but that it proved too difficult and time-consuming for most of their members. (Coalition Associations Comment 9 n.9; ISRI Comment 9–10.) The Coalition Associations argue that in past cases the Board has found that trucks are competitive with rail at a range of 150 to 500 miles. (Coalition Associations Comment 12–13 & n.15.)

Rail interests take varying positions regarding the 500-mile threshold. AAR asserts that the threshold is conservative and that AAR ''generally supports the Board's determination that requiring a distance greater than 500 highway-miles strikes the right balance in today's competitive environment.'' (AAR Comment 8–9.) AAR also notes that the distances traveled by trucks in a single day are increasing, due to companies experimenting with platooning, remote operation, and autonomous trucks, as well as the trucking industry's efforts to increase truck size and weight limits. Accordingly, AAR suggests that the mileage threshold may need to be increased in the future to accommodate the increased truck competition at greater distances. (*Id.* at 9.)

BNSF argues that the Board should not consider any threshold less than 500 miles for any commodity, but also states that it sees ''strong truck competition for movements that significantly exceed 500 miles, which is consistent with reported statistics.'' (BNSF Comment 13.) Accordingly, BNSF suggests 750 miles as a more appropriate threshold, citing to United States Department of Transportation (USDOT) statistics that it states show that trucks carry the largest share of goods shipped in the U.S. and remain the primary mode for shipments moved less than 750 miles. (*Id.*)

UP and CN also argue that the threshold should be higher, and that the Board's proposed 500-mile figure lacks data to support its use as a threshold for a prima facie determination. (UP Comment 12; CN Comment 2.) UP suggests that ''the Board seek empirical evidence and set higher hurdles, so the presumptions better assist shippers in identifying situations in which market dominance is not likely to be contested.'' (UP Comment 12 (also noting that the Board has found that trucks provide effective competition for movements longer than 500 miles.)) CN submitted a verified statement from Dr. Michael Tretheway, Chief Economist and Executive Vice President of InterVISTAS, relying on data from the U.S. Census Bureau's Commodity Flow Survey (CFS), which it states ''shows that using 500 miles as a cutoff is too conservative'' and that ''rail and truck compete on equal terms'' in the 500–749 mileage band. (CN Comment 4, V.S. Tretheway 1, 3.) In its reply comment, CN submitted an updated verified statement from Dr. Tretheway, analyzing the same data but organized by commodity groups and distance bands. Based on this data, CN proposes either switching to an across-the-board 750-mile threshold, or using commodity-group-specific thresholds, with the thresholds being set at the distance at which the tonnage shipped by truck exceeds or is comparable to the tonnage shipped by rail. (CN Reply 4.) [10]

The Coalition Associations respond that ''[s]etting the highway-distance threshold high enough to exclude nearly every conceivable movement where a railroad may not have market dominance is neither desirable nor necessary,'' given that railroads would still have an opportunity to present evidence showing that there is effective competition. (Coalition Associations Reply 31.) In response to AAR's argument that daily truck distances are increasing due to technological advances, the Coalition Associations and ISRI state that these technologies do not impact driving speed or time, which are the two factors that affect driving distance, and commenters state, in any event, these changes are not expected to be implemented anytime soon. (Coalition Associations Reply 30–31; ISRI Reply 2–3.) In addition, the Coalition Associations and ISRI argue that both CN's analysis of the CFS data and BNSF's analysis of the USDOT data are flawed. The Coalition Associations and ISRI note that the CFS data is based on market share, but the Interstate Commerce Commission (ICC) long ago recognized that market share is a poor measure of market dominance because of the difficulty in calculating the appropriate market and because the competitive implications of market share vary from case to case. (Coalition Associations Reply 29 (citing *Mkt. Dominance Determinations,* 365 I.C.C. 118, 123 (1981)); ISRI Reply 2 (same).) The Coalition Associations and ISRI also argue that the USDOT data shows that the average distance for truck shipments is 227 miles, compared to 805 miles for rail shipments, thus undermining BNSF's assertion that 500 miles is too low a threshold. (Coalition Associations Reply 29; *see also* ISRI Reply 2.)

The comments have not presented sufficient evidence for either modifying or eliminating the 500-mile threshold at this time. Any threshold used for this purpose should strike a proper balance. On the one the hand, the threshold should not be too low, thereby allowing shippers that are not reasonably likely to lack effective competition to use the streamlined approach. On the other hand, the threshold should not be too high, thereby preventing shippers that are reasonably likely to lack effective competition from using the approach. Moreover, it bears noting that the mileage threshold is just one of two prima facie factors that would be used to evaluate trucking competition. The Board considered this factor in tandem with the trucking volume threshold factor (discussed in more detail in subpart E, ''10% or Fewer of Recent Movements by Truck,'' below) and intends that the mileage and volume thresholds together will identify shippers that are reasonably likely to lack trucking options that provide effective competition.

The Board concludes that using an estimate of the maximum distance that a truck can typically travel in a single day is a reasonable measure for a single mileage threshold, applicable to a wide range of shippers, and that 500 miles continues to be a reasonable calculation of this distance. Several shippers and shipper groups argue that the distance should be cut in half to 250 miles to account for FMCSA regulations and a return trip. However, in basing the threshold on trucking distance per day, it is more appropriate to use the *maximum* distance that a truck could travel. While 250 miles may be the practical limit for some shippers because of the need for return trips, not all shippers move traffic back-and-forth between a single origin and destination and would not be so constrained. Because the streamlined approach is intended to be used in situations in which the lack of alternative

[10] CN notes that there is a lag with the data but states that it is unavoidable. It argues that if the Board decides to rely on this data, it could update the mileage thresholds as new data is released. (CN Reply 3 & n.7.)

transportation options is clear on its face, the Board finds it is better to set the threshold around the outermost point of a one-day trucking shipment to ensure that only those shippers that are more likely to be found to lack effective competition can utilize it. In addition, although AAR has noted that the distance a truck can travel in a single day may increase due to certain technological advancements, these advancements have not been widely implemented. The Board acknowledges that such technological advancements may well have competitive implications, and the Board can revisit the mileage threshold once those advancements have been more widely implemented.

The Board also finds unconvincing the Coalition Association's argument that a lower threshold that errs on the side of being too low should not lead to inappropriate market dominance findings, as railroads would still have an opportunity to refute the prima facie showing on reply. (Coalition Associations Reply 31.) The streamlined market dominance approach is intended to reduce the litigation burdens on all parties in a rate case, and the Coalition Association's approach could result in railroad defendants needing to make reply arguments in cases where market dominance is not reasonably likely.

In addition, no party provided the Board with sufficient data to demonstrate that a higher mileage threshold would be more appropriate. The CFS data that CN relies on shows the share of U.S. freight traffic by transportation mode (by tonnage), broken out into distance bands. The data shows that for the 500–749 mileage band, rail has a 43% share of the traffic, while truck has a 39% share. CN argues that this indicates that rail and truck compete for traffic at these distances. According to CN, the Board should set the threshold based on the 750–999 mileage band, where rail's share increases to 57% and truck's share decreases to 28%. As a general matter, the Board has some concerns with relying on the CFS data for purposes of calculating the mileage threshold.

One concern is that the CFS data appears to combine full truckload and less-than-truckload (LTL) shipments into the same trucking category.[11] Unlike rail shipments, LTL involves transportation of small products that do not fill an entire trailer and that are often combined with other such products (or shipments) during transport. Rail shipments and LTL shipments, which typically have different service and product characteristics, are generally not comparable. In addition, the Board has identified some significant differences in the mileage trends between the CFS data and the Carload Waybill Sample, which the Board relies on for many regulatory purposes. In particular, the 2012 CFS data shows that 24% of rail tons moved under 100 miles, but the 2012 Waybill data shows that only 11.1% of rail tons move under 100 miles. In another example, the 2012 CFS data shows that 53% of rail tons moved under 500 miles, but the 2012 Waybill data shows 36% of rail tons moved under 500 miles. While these differences do not necessarily indicate that the CFS data is inaccurate, and may be due to the different survey populations and programs used to calculate rail mileages, they raise questions about relying on the CFS data here, at least for rail volumes and distances.[12]

In any event, the CFS data itself does not conclusively show that the 500-mile threshold is too low. Based on 2012 CFS data, in the 250–499 mileage band, truck has a traffic share (by tonnage) of 55%, compared to 29% for rail. In the 500–749 mileage band, the traffic share for rail rises to 43% and surpasses the traffic share for truck, which falls to 39%. While the 2012 CFS data shows that rail does not comprise a majority share of tonnage until the 750–999 mileage band, the data also shows that at 500 miles, rail holds certain efficiencies and advantages over truck, when considering commodities in aggregate. For example, notwithstanding the CFS data issues noted above, the data shows that rail transports more tonnage than truck in the 500–749 mileage band, and rail's share of tonnage substantially increases from the 250–499 mileage band to the 500–749 mileage band. As such, the CFS data does not undermine the Board's conclusion that 500 miles is a reasonable threshold for purposes of determining competitiveness of rail transportation versus truck.

The Board seeks to strike an appropriate balance. Given its determination that rail likely has efficiencies and advantages over truck in certain circumstances once a shipment exceeds the distance a truck can reasonably travel in a single day (*i.e.,* 500 miles), the Board concludes that a 750-mile threshold would exclude shippers that are reasonably likely to lack competition.[13] In addition, the mileage band is just one of two prima facie factors that would be used to evaluate trucking competition; the 10% or less trucking volume threshold serves as another constraint that effectively limits use of the streamlined approach to cases where shippers that are reasonably likely to lack effective truck competition. Thus, the 500-mile threshold, combined with the 10% or less trucking volume threshold,[14] will serve as a sufficient screen to identify movements that likely lack effective trucking competition.[15]

2. Commodity-Specific Thresholds

As noted above, the *NPRM* invited comment on whether the mileage threshold could be varied by commodity groups, and also asked commenters to provide detailed quantitative and qualitative information in support of any alternative mileage threshold. BNSF

[11] According to the Bureau of Transportation Statistics' explanation of the 2012 CFS data, ''[f]ull or partial truckloads were counted as a single shipment only if all commodities on the truck were destined for the same location. For multiple deliveries on a route, the goods delivered at each stop were counted as one shipment. . . . For a shipment that included more than one commodity, the respondent was instructed to report the commodity that made up the greatest percentage of the shipment's weight.'' *See* Bureau of Transp. Statistics, 2012 Commodity Flow Surv., *https://www.bts.gov/archive/publications/commodity_flow_survey/2012/united_states/survey* (last visited July 23, 2020) (see section titled ''Data Collection Method''). This appears to indicate that full truckload and LTL shipments are counted the same way under the truck category.

[12] In particular, the CFS is based on a survey of business establishments with paid employees that are located in the United States, whereas the Carload Waybill Sample gathers its data from the transportation providers. In addition, the CFS uses a program called GeoMiler to calculate rail mileages, *see* Bureau of Transportation Statistics, 2012 Commodity Flow Survey, *https://www.bts.gov/archive/publications/commodity_flow_survey/2012/united_states/survey* (last visited July 23, 2020) (see section titled ''Mileage Calculations''), while the Board's 2012 Waybill Sample used software called PC RailMiler, which is a routing, mileage, and mapping software for the transportation and logistics industry. *See DuPont 2014,* NOR 42125, slip op. at 266 n.1446.

[13] BNSF's reliance on the statement from the USDOT report that says that trucking ''remain[s] the primary mode for shipments moved less than 750 miles'' is also unavailing. (*See* BNSF Comment 13.) The report includes a table that shows that rail has a smaller share of ton-miles in the 500–749 mileage band compared to truck, but as with the CFS data, the Board has some concern about whether this information is appropriate for setting the mileage threshold. In particular, it appears that the graph may incorporate data from a broad range of shipments, including those that normally do not move by rail, and as such, it is difficult to draw a meaningful conclusion about either increasing or decreasing the mileage threshold.

[14] As explained below, the Board clarifies that the 10% threshold is based on volume rather than number of movements.

[15] For this reason, the Board rejects ISRI's proposal to combine the trucking volume threshold and 500-mile threshold into one factor, which a shipper could satisfy by showing that either of these thresholds is met (rather than both). (*See* ISRI Comment 11.)

generally opposes commodity-specific thresholds, arguing that it would run counter to the goal of simplification. (BNSF Reply, V.S. Miller 15.) Several commenters argued for commodity-specific thresholds.

The Board appreciates the comments submitted. Based on the input received, the Board agrees that the concept of creating commodity-specific thresholds has merit and is preferable to a blanket threshold. Several commenters presented credible arguments that, for some commodities, including, but not limited to, chlorine and agricultural commodities, trucking becomes less competitive at a distance shorter than 500 miles. Therefore, even though, as discussed in more detail below, the information submitted in this docket did not contain sufficient quantitative data to support the adoption of commodity-specific mileage thresholds at this time, the Board finds that this issue warrants additional consideration. Accordingly, while the final rule adopted here establishes a single mileage threshold of 500 miles, the Board plans to soon initiate a proceeding to further explore the adoption of various commodity-specific mileage thresholds.

ISRI argues for lowering the threshold to 200 miles for scrap metal shipments. (ISRI Comment 5.) Although ISRI cites a survey it conducted of its members in support, ISRI did not include the survey or accompanying data but rather summarizes its results. ISRI also provides some information regarding truck shipments, but only from four of its members. (*Id.* at 5–7; ISRI Reply 2 n.5.) ISRI also states that there are factors unique to the scrap metal industry that compel ISRI members to rely on rail for movements significantly less than 500 miles, such as the need for specialized trucking equipment. (ISRI Comment 7–8; ISRI Reply 2.) However, the Board would need more comprehensive and fully supported data before lowering the threshold for scrap metal shipments.

AFPM opposes the 500-mile threshold for fuel and petrochemicals, arguing that those materials are frequently shipped via unit train and that trucking substitutions for an entire train are likely to become non-competitive at a lower threshold. (AFPM Comment 5.) AFPM proposes a 250-mile threshold but provides no data to support that figure. (*See id.*) Accordingly, the Board will not adopt a lower threshold for fuel and petrochemicals at this time.

PCA states none of its members would ever be able to satisfy a 500-mile threshold for cement because shipping cement by truck becomes impracticable at distances far below 500 miles. PCA, however, does not propose an alternate threshold nor does it provide data to support its arguments. Rather, PCA claims that the Board itself acknowledged that cement cannot satisfy a 500-mile threshold in *Review of Commodity, Boxcar, and TOFC/COFC Exemptions,* EP 704 (Sub-No. 1) (STB served Mar. 23, 2016) (with Board Member Begeman dissenting). (PCA Comment 2–3.) PCA overstates that decision. There, the Board merely cited PCA's own assertion that shipments of cement move at a range of 250 to 300 miles while seeking comment on the possible revocation of the exempt commodity status of hydraulic cement. In citing this assertion from PCA, however, the Board did not make any definitive findings regarding the distances of such shipments.

Olin argues that the 500-mile threshold is unreasonable for its chlor alkali products and that this factor should be removed entirely for chlorine and other hazardous materials that cannot readily or feasibly move by truck. (Olin Comment 6–7.) Although chlorine, in particular, may rarely move by truck, Olin provides no data to support an alternative chlorine-specific threshold.[16] However, for chlorine, in particular, there is a sufficiently strong basis to consider modifying the threshold or eliminating it. The record here though does not contain enough information to determine if the mileage threshold should be lowered (and, if so, to what mileage) or eliminated. As discussed above, the Board will institute a proceeding in the near future to gather more information on commodity-specific thresholds for various commodities, including chlorine.

NGFA proposes that the mileage threshold be set at 200 miles for agricultural commodities, asserting that trucking generally is effectively competitive with rail for agricultural movements of only 200 miles or less. (NGFA Comment 3.) In its reply comment, NGFA cites to a chart from the 2010 National Rail Plan produced by the Federal Railroad Administration (FRA), which NGFA claims shows that rail's share for all freight starts to increase above 200 miles. The 2010 chart is for all commodities and is not specific to agricultural shipments. Moreover, it shows that for the 250–499-mileage band, truck has a majority share of traffic (based on tonnage). NGFA also cites to an academic study from 2010 conducted in coordination with AAR that found that ''rail clearly has the advantage for the bulk movements, even for the 50- and 200-mile moves.'' (NGFA Reply 4–5 (quoting from the study's report [17]).) However, the report's findings were more nuanced than the selected quote suggests. In the same paragraph, the report concludes that ''[t]he detailed results indicate that the rail market share increased *for lower value and longer distance movements.*'' Estimating the Competitive Effects of Larger Trucks on Rail Freight Traffic, at 12 (emphasis added). Again, despite not adopting a lower mileage threshold for agricultural commodities or any other commodities at this time, the Board intends to further explore in a separate proceeding whether various commodity-specific thresholds should be created, including for agricultural commodities, given the Board's long-standing concern that the Board's rate reasonableness review process is not readily accessible to many agricultural shippers.

As noted above, CN suggests, as an alternative to its proposed 750-mile threshold, using commodity-group-specific thresholds based on CFS data, with the thresholds being set at the distance at which the tonnage shipped by truck exceeds or is comparable to the tonnage shipped by rail. (CN Reply 4.) However, the CFS data relied on by CN for its commodity-group threshold is based on data at the two-digit Standard Transportation Commodity Code (STCC) level and is not granular enough to create commodity-specific thresholds (CN itself refers to its categories as commodity-*group*-specific thresholds).[18] (CN Reply 4.) In addition, as explained above, the Board has identified issues with relying on the CFS data for purposes of calculating mileage thresholds.

Finally, several commenters oppose the 500-mile threshold for coal. NCTA proposes that the Board use a lower

[16] In addition, for all other non-toxic-by-inhalation hazardous commodities, Olin proposes a ''sliding-scale'' approach for shipments up to 250 miles, which it states would take into account ''the nature of the product and the involved packaging and availability of equipment required for trucking.'' Olin further states that ''[i]n cases where the use of truck would require possible terminal storage and transloading, the measured distance for meeting the established prima facie should be lengthened on the sliding scale, to accommodate the expense and difficulties of transloading.'' (Olin Comment 7; *see also* FRCA Comment 2.) These approaches are not fully explained or supported.

[17] Carl D. Martland, *Estimating the Competitive Effects of Larger Trucks on Rail Freight Traffic* (2010), *https://www.aar.org/wp-content/uploads/2017/12/AAR-Estimating-Competitive-Effects-Larger-Trucks-2010-Report-TSW.pdf.*

[18] *See, e.g., Expanding Access to Rate Relief,* EP 665, slip op. at 13 (Sub-No. 2) (STB served Aug. 31, 2016) (stating that commodities at the five-digit STCC level ''would be similar enough'' for inclusion in a comparison group and that certain commodities, such as chemicals, may best be compared at the seven-digit STCC level).

mileage, such as 200 miles, for ''high volume, heavy commodities'' such as coal. (NCTA Comment 3.) WCTL proposes that the Board eliminate any mileage threshold for unit train transportation of coal entirely, arguing that it is not subject to competition from truck. (WCTL Comment 9–10.) It states that it is not aware of any case where the Board or ICC found that unit trains of coal were subject to competition from truck, even in cases where the origin-destination was far less than 500 miles. (*Id.*) [19] FRCA states that coal is seldom, if ever, trucked more than 100 miles and cites to a 2007 research paper from the National Research Council of the National Academies, which states that coal is hauled by truck on average only 32 miles. FRCA argues that 50 miles would be a generous threshold. (FRCA Comment 2.) It is generally well-understood that when coal is shipped in significant quantities it is unlikely to be shipped by truck. However, even if the Board determined that a coal-specific threshold was warranted, there is not enough information in the record to determine what threshold should be set. Again, this is an issue that the Board may examine further in the proceeding that it plans to initiate soon.

As described above, much of the evidence submitted was either anecdotal or limited to only a few shippers and did not include sufficient data for the Board to draw a conclusion with regard to any particular commodity as whole. In its future consideration of the issue of commodity-specific thresholds, the Board will expect proponents to support their arguments with more extensive data, beyond just a few examples, on shipping distances for rail versus truck for that commodity. As for the CFS data relied on by CN, while it was not granular enough to draw conclusions about the appropriate mileage threshold for specific commodities, parties that seek to rely on it in the future proceeding should address that granularity issue and whether adjustments could make its use more suitable for this purpose.

3. Multi-Rail Carrier and Transload Shipments

AFPM argues that the mileage threshold should be from origin to destination for multi-rail carrier moves. AFPM argues that a single carrier's portion of the move (*i.e.,* from origin/destination to interchange) should not be viewed in isolation, because when a rail carrier only has a short portion of the overall move, its ''behavior related to rate establishment becomes more aggressive and pushes the line of what would be considered reasonable.'' (AFPM Comment 5–6.) AFPM also indicates that if only an individual carrier's portion of the move is examined, it often would not meet the 500-mile threshold. (*Id.* at 6.) Similarly, FRCA argues that for short-haul rate cases involving transload shipments (*i.e.,* shipments that move on rail for only a portion of a move and are transferred to another mode of transportation for the remaining portion of the move), the distance threshold should apply from origin to destination, rather than from origin to interchange. (FRCA Comment 2.)

For purposes of the 500-mile threshold, the Board will treat multi-carrier movements the same as it does for rate reasonableness challenges. *See Cent. Power & Light Co.* v. *S. Pac. Transp. Co.,* 1 S.T.B. 1059 (1996), *clarified,* 2 S.T.B. 235 (1997), *aff'd sub nom. MidAm. Energy Co.* v. *STB,* 169 F.3d 1099 (8th Cir. 1999) (addressing when multi-carrier rates are subject to challenge). In particular, whether a rate (or rates) on a multi-carrier move are subject to challenge would depend on the type of rate being offered (joint through rate or proportional rate) and whether the rate (or rates) are subject to tariff or contract.[20] In addition, with regard to FRCA's comment, the Board will not make an exception to the way it assesses the 500-mile threshold for short-haul cases involving transload shipments where the rail portion of the move is 500 miles or less. As discussed further below, looking at market dominance from origin-to-destination on transload moves (*i.e.,* both the rail and non-rail portions together) would be contrary to statute and established Board precedent. *See infra* Part IV (subpart B, ''*DMIR* Precedent''). Moreover, if the rail shipment is less than 500 miles and can be transloaded, that may cast doubt on whether the shipper lacks transportation options. In such instances, based on the record here, the question of market dominance would be better determined through the non-streamlined approach.

C. Absence of Intramodal Competition

The Board proposed a prima facie factor that complainants demonstrate that there is no effective intramodal competition (*i.e.,* whether the complainant can use another railroad or other railroads to transport the same commodity between the same points). *NPRM,* EP 756, slip op. at 8. The Board explained that the complainant could satisfy this factor by submitting a verified statement from an appropriate official of the complainant attesting that it does not have practical physical access to another railroad. The Board defined ''practical physical access'' as encompassing feasible shipping alternatives on another railroad, including switching arrangements, where ''an alternative is possible from a practical standpoint given real-world constraints.'' *Id.* (citing *Total Petrochems.,* NOR 42121, slip op. at 4 n.9.)

Only a few commenters addressed this factor. The Coalition Associations argue that the Board should abandon the ''practical physical access'' standard and simply require complainants to demonstrate that they do not have ''direct'' physical access. (Coalition Associations Comment 19–20.) In other words, the Coalition Associations argue that the factor should not encompass reciprocal switching because, as demonstrated by testimony provided in *Reciprocal Switching,* Docket No. EP 711 (Sub-No. 1), the effectiveness of reciprocal switching depends on multiple factors under the railroad's control, as well as the alternative carrier's willingness to compete. (Coalition Associations Comment 19–20.) Along these lines, AFPM argues that even in some situations where a shipper has access to two carriers, some carriers choose not to provide competitive offers. (AFPM Comment 6.) Therefore, AFPM seeks clarification of the phrases ''complete absence of railroad competition'' and ''feasible shipping alternatives.'' (*Id.*) AFPM also seeks clarity and more detail on what is meant by ''an alternative is possible from a practical standpoint given real-world constraints,'' as shippers and railroads view the terms ''possible'' and ''practical'' differently. (*Id.*) AFPM also asks the Board to clarify what type of documentation in support of this factor would be acceptable and define or list who it deems to be ''appropriate officials'' that can submit the supporting verified statement. (*Id.*) [21]

[19] WCTL cites *Metro Edison Co.* v. *Conrail,* 5 I.C.C.2d 385, 413 (1989), in which the agency stated that ''[i]t is simply impractical to move [large] volume[s] of coal by truck.'' (WCTL Reply 2.)

[20] Accordingly, if the rate (or rates) for the entire origin-destination route are subject to challenge, the mileage threshold would be judged against the mileage of the whole origin-destination route. Conversely, if only a part of the rate (or rates) for the origin-destination route are subject to challenge, the mileage threshold would be judged against only that portion of the route.

[21] AFPM and other parties seek similar clarifications (regarding the contents of verified statements and the identify of ''appropriate officials'') with respect to other prima facie factors

The Board will adopt this factor as proposed in the *NPRM.* The Coalition Associations essentially argue that complainants should be able to satisfy this factor even if they have access to another carrier through a reciprocal switching arrangement. While the existence of reciprocal switching may not necessarily mean that a shipper has effective competitive options, it strongly suggests a lack of market dominance. Accordingly, in such situations, a determination of market dominance would be better explored through the non-streamlined approach, in which the shipper can present a full explanation as to why it believes there is market dominance despite an existing reciprocal switching agreement. The same rationale holds for AFPM's assertion regarding a lack of competition when there is direct physical access to two carriers.

In response to the comments, the Board provides the following clarification regarding the application of this factor. The most obvious scenarios where there would be practical physical access are where multiple carriers can directly serve the complainant's facility or where the shipper's facility is open to reciprocal switching. However, there could be other arrangements (such as haulage, terminal trackage rights, or interchange agreements) that would allow for multi-carrier access and therefore would constitute practical physical access. In some situations, practical physical access could also be found despite the absence of any such arrangement. For example, if a shipper has refused a rail carrier's bona fide offer to open a facility to reciprocal switching but the offer still stands, that would likely be considered to fall within the definition of practical physical access. As such, the Board would consider this evidence as part of its analysis as to whether this prima facie factor has been met. Leaving the definition as proposed in the *NPRM* will help to ensure that a complainant has accounted for all types of intramodal arrangements before deciding whether to use the streamlined market dominance approach.

D. Absence of Barge Competition

The Board proposed a demonstration of the absence of barge competition as another prima facie factor. *NPRM,* EP 756, slip op. at 8 (whether barge competition constrains market power). As with the intramodal competition factor, the Board stated that, in most cases, a complainant would satisfy this factor by submitting a verified statement from an appropriate official attesting that the complainant does not have practical physical access to barge competition.

Some shippers and shipper groups argue that the factor as proposed omits clear evidentiary standards and that requiring the complainant to file only a verified statement leaves complainants to guess how much evidence is enough to satisfy this factor. (Coalition Associations Comment 14–15; Olin Comment 8; AFPM Comment 7.) The Coalition Associations argue that the factor is indistinguishable from what must be shown in a non-streamlined market dominance inquiry. (Coalition Associations Comment 14.) Accordingly, these commenters propose that the Board adopt more specific criteria regarding barge competition. For example, the Coalition Associations propose that if the origin, destination, or both, are landlocked,[22] this would constitute an ''objective measure[ ]'' demonstrating that there is a lack of barge competition. (Coalition Associations Comment 15.) The Coalition Associations further propose that the factor would be satisfied if the complainant could show that the origin, destination, or both do not have barge facilities, or that they lack facilities capable of handling the issue commodity. (*Id.* at 15–16; *see also* Olin Comment 8 (proposing that barge competition requires an existing barge facility); AFPM Comment 7 (same).) The Coalition Associations also propose that this factor would be met if the complainant could show that the origin and destination are not located on interconnected navigable waterways. (Coalition Associations Comment 16.)

The Board will not adopt the modifications sought by the Coalition Associations and others but instead will issue the following guidance. The most obvious scenarios where there would be practical physical barge access are where the origin and destination have barge facilities that are capable of handling the issue commodity and are located on interconnected navigable waterways. Conversely, if the origin and destination are not located on interconnected navigable waterways, or if they lack barge facilities capable of handling the issue commodity, the Board would consider these facts in its determination of whether the prima facie factor regarding barge competition has been met.[23] Requiring, as proposed in the *NPRM,* an attestation that the complainant does not have practical physical access to barge competition (rather than adopting the specific criteria proposed by the Coalition Associations) will ensure that a complainant has accounted for all types of barge arrangements before proceeding under the streamlined market dominance approach. Therefore, the Board will adopt the proposal in the *NPRM,* under which complainants will be free to explain in their verified statements when the situations discussed by the Coalition Associations exist and how those facts demonstrate that this prima facie factor is met.[24]

E. 10% or Fewer of Recent Movements by Truck

The Board proposed a prima facie factor that the complainant must have shipped 10% or fewer of the movements at issue by truck over the last five years. *NPRM,* EP 756, slip op. at 8–10. The Board found that if a complainant meets this factor, it would be ''reasonably likely to have persuasive arguments for why trucking does not provide effective competition, including customer contracts, product characteristics, and price of the trucking alternative,'' and that the factor would therefore assist the Board in making a market dominance determination more expeditiously. *Id.* at 9. However, the Board noted that there were past cases in which it had found a lack of market dominance, even when trucking volumes were less than 10%. Accordingly, as with the 500-mile threshold, the Board invited parties to comment on whether an alternative truck movement percentage should be used and to include detailed quantitative and qualitative information in support. *Id.* at 9–10. The Board received comments addressing the necessity of the threshold, how the volume of traffic would be measured, whether the percentage should be changed, the appropriate lookback period, and routing issues. As discussed below, the Board will adopt this factor with a clarification to the measurement of the threshold.

proposed by the Board. All such comments are discussed below in Part III (subpart C, ''Disclosures and Verified Statements'').

[22] The Coalition Associations indicate that they define ''landlocked'' as ''not located on a navigable waterway.'' (Coalition Associations Comment 15 (''Barges would not be able to service traffic moving to or from a landlocked facility, which would encompass any facility that is not located on a navigable waterway.'').)

[23] In the latter scenario, to the extent that a practical build-out could create effective barge competition, the Board would consider that option under the build-out factor, which, as discussed below, continues to be included as prima facie factors under this final rule.

[24] For this reason, and because, as discussed below, the Board will not allow partial use of the streamlined process, the Board will not adopt Olin's proposal to allow a partial non-streamlined market dominance presentation for the barge factor. (*See* Olin Comment 8–9.)

1. Whether To Remove the 10% Threshold

AFPM and MillerCoors argue that this factor undermines the goal of the streamlined approach and should be discarded. (AFPM Comment 8; MillerCoors 13.) AFPM claims that the factor is ''redundant and excessive'' because the mileage-threshold factor alone serves as a sufficient basis for assessing the competitiveness of truck. (AFPM Comment 8; *see also* MillerCoors 13.) MillerCoors claims that analysis of this factor could be extremely complex, and inclusion of the factor would negatively affect RTP goals. (MillerCoors Comment 13, 14–16.)

The Board disagrees. The purpose of the market dominance analysis is to assess whether there is effective competition for the transportation to which the rate applies, 49 U.S.C. 10707(a), and, therefore, the volume that a shipper moves by another mode of transportation is one of the key indicators. The 500-mile threshold, although also intended to help determine whether a movement has competitive trucking options, is insufficient in and of itself. If a shipper with movements over 500 miles shipped a significant portion of its traffic by truck, it would not be reasonably likely to lack effective competition. Finally, although MillerCoors argues that the factor should be eliminated because it would require complex analysis, shippers that cannot satisfy the prima facie factors continue to have the option of using the non-streamlined market dominance approach.

2. Volume of Traffic

A few commenters interpreted the *NPRM* as proposing that the trucking volume threshold would be measured based on the number of movements. (NGFA Comment 5; Olin Comment 9; Coalition Associations Comment 9, ISRI Comment 9.) Those commenters correctly point out that volume would be the more appropriate measure. (*Id.*) Although the Board used the term ''movements'' in the *NPRM,* it intended that this factor would be measured based on volume, specifically, overall tonnage. Volume is indeed the better measure, as rail and truck shipments are not comparable for purposes of measuring quantity of traffic, given that one rail shipment is generally equal to multiple truck shipments. The Board will clarify the final rule in § 1111.12(a) by replacing ''10% or fewer of its movements'' with ''10% or less of its volume (by tonnage).'' *See* Final Rule below.

3. Percentage

Shippers and shipper interests argue that the Board should raise the percentage for this factor from 10% to up to 25%. (Coalition Associations Comment 10 (proposing 20%); ISRI Comment 9 (same); Olin Comment 9 (same); FRCA Comment 2 (same); NCTA Comment 3 (same and proposing that the Board use a higher percentage for ''high volume, heavy commodities'' such as coal); NGFA Comment 5 (proposing 20–25%); PCA Comment 2 (proposing 25% for all shippers or determined on an industry-by-industry basis using the unique characteristics for that industry).) These commenters, as well as USDA, generally argue that a 10% threshold is too low because issues such as the need for expedited shipments, rail service delays, and force majeure events may force shippers to use truck, pushing their trucking volume higher despite the existence of market dominance. (Coalition Associations Comment 10; PCA Comment 2; USDA Comment 9; NCTA Comment 3; FRCA Comment 2; PCA Comment 2.) NCTA also suggests that a higher percentage is warranted to account for situations where shippers resort to truck due to high rail rates. (NCTA Comment 3; *see also* FRCA Comment 2 (arguing that that a shipper should not be required to meet this factor if it can show a diversion occurred because of rail service inadequacies or high rates).) AAR disputes that higher trucking percentages may indicate market dominance, calling it ''flawed logic.'' (AAR Reply 5–6.)

UP suggests that the *NPRM* proposed too high a threshold and argues that the Board did not provide any empirical support for the 10% threshold, and that the Board also acknowledged that it has found effective competition where complainants shipped a smaller share of traffic by truck. (UP Comments 12.) UP argues that the Board should seek empirical evidence and set higher hurdles to a showing of streamlined market dominance. (*Id.*)

The Board will adopt the 10% threshold. The Board acknowledges that in certain situations, certain events, such as service issues, may cause truck volumes to increase. However, because volumes would be measured over a five-year period, any short-term spike in truck volumes would likely even out over the course of the five-year lookback period, a point that the Coalition Associations acknowledge. (Coalition Associations Comment 11 (''This time frame is essential to smooth out spikes in truck volume that occur due to factors other than competition.'').) In addition, the shippers' arguments seem to be premised on the notion that service issues are inevitable and will undoubtedly cause an increase in truck volumes. But that may not always be the case. Raising the threshold to 25% could lead to successful prima facie showings of market dominance by shippers who have moved a significant portion of their traffic by truck simply in the ordinary course of business. Commenters have not established why a threshold greater than 10% is necessary to account for service problems or other issues that may cause a complainant to use truck in some instances, even though truck does not provide effective competition.

The streamlined approach is intended for situations where market dominance can be demonstrated without the need for extensive evidence or explanation.[25] If a shipper cannot meet the 10% threshold due to service problems, high rail rates, or other issues, but believes it is subject to market dominance, it may still seek to prove its case through a non-streamlined market dominance analysis, which may explore these sorts of fact-specific issues. The impact of service issues, in particular, may not be clear-cut, as there could be genuine disputes between a shipper and rail carrier as to whether such issues in fact existed or, if they did exist, whether they caused a conversion of traffic from rail to truck. These types of disputes are not appropriate for the streamlined approach.

UP argues that the 10% threshold is not supported by empirical evidence. It suggests that ''the Board seek empirical evidence and set higher hurdles, so the presumptions better assist shippers in identifying situations in which market dominance is not likely to be contested.'' (UP Comment 12.) As part of the *NPRM,* the Board specifically sought evidence to support alternative thresholds. *See NPRM,* EP 756, slip op. at 9–10 (''The Board invites public commenters to include detailed

[25] Some commenters propose alternatives to meeting this threshold under certain circumstances. (*See* Coalition Associations Comment 11 (proposing a two-tiered threshold in which this factor would also be satisfied if trucks are used for 10–20% of volume at truck rates that exceed rail rates by more than 10%); FRCA Comment 2 (proposing that the factor would be satisfied if complainant can show a diversion to truck occurred because of rail service inadequacies or high rates); NGFA Comment 6 (proposing that the factor would be satisfied if complainant demonstrates that trucks do not provide effective competition for a specific movement).) However, these proposals would be contrary to the Board's goal of simplification and would be better explored through a non-streamlined market dominance analysis. *See NPRM,* EP 756, slip op. at 7.

quantitative and qualitative information in support of any alternative truck movement percentage threshold.''). However, commenters provided insufficient evidence to support an alternate threshold,[26] and the Board finds that 10% is an appropriate level at which to set the truck volume threshold. The Board explained in the *NPRM* that complainants that meet this factor ''despite rates with high R/VC ratios and the absence of intramodal and barge competition, are reasonably likely to have persuasive arguments for why trucking does not provide effective competition, including customer contracts, product characteristics, and price of the trucking alternative.'' *NPRM,* EP 756, slip op. at 9. Moreover, even shippers in a highly uncompetitive situation may, at times, need to rely on truck moves, so the threshold must allow some truck movement. UP does not call either of these premises into question. Setting the truck volume threshold lower than 10% would likely render the streamlined market dominance approach unavailable to shippers that are reasonably likely to lack effective competitive options but must resort to truck on rare occasions. On the other hand, setting the threshold higher than 10% could permit a shipper that chooses to ship a significant portion of its freight by truck in the ordinary course of business, and is therefore much less likely to lack effective competitive options, to nevertheless make a prima facie showing of market dominance. In addition, the Board reiterates that the truck volume threshold is just one of two prima facie factors, along with the 500-mile threshold, that would be used to evaluate trucking competition. The two prima facie factors in tandem will serve as a sufficient screen to identify movements that are reasonably likely to lack effective trucking competition.

4. Lookback Period

As noted, the Board proposed in the *NPRM* that volumes would be considered over the previous five years.[27] Only a few commenters address whether this is a sufficient period. PRFBA argues that five years is too long and instead proposes two years. (PRFBA Comment 1.) NGFA argues that the Board should use a five-year ''Olympic average,'' in which the highest and lowest years are dropped from the average. It claims that this would eliminate one-year anomalies that may skew the average. (NGFA Comment 5–6.) As noted, the Coalition Associations support using a five-year period. (Coalition Associations Comment 11.)

The Board will adopt the five-year period. The two-year period proposed by PRFBA is too short to capture a long-term trend in truck volumes or allow temporary fluctuations in volumes to even out. Although NGFA's proposal would exclude periods where service issues may have caused a complainant to rely more heavily on truck, as noted, use of a five-year period based on a simple average of tonnage would be sufficient to reduce the impact that any such periods could have on trucking volume percentage.

5. Routing Issues

The Coalition Associations also propose that transload shipments count toward truck volume only if the defendant railroad does not participate in the route. They argue that if the defendant railroad participates in the route, then that transload shipment is not serving as a potential constraint on the defendant railroad. (Coalition Associations Comment 11.) The Board finds that transload shipments should be included as part of the trucking volume calculation, as long as the transload shipment is serving the same origin-destination pair as the rate that is being challenged and involves a railroad other than the defendant. For example, if the rate at issue is for origin A to destination B, but there is a transload option where another railroad moves traffic from A to interchange X and the traffic is then trucked from X to B, that trucking volume should be included,[28] because the transload option would be directly competing with the railroad-only option, even if the defendant railroad itself is part of the transload routing. Conversely, the trucking volume from a transload routing should not be included if the origin-destination pair does not match the route of the rate at issue.[29]

NGFA also argues that the Board should amend this factor to clarify that the threshold applies to the origin-destination pair of the rate being challenged. (NGFA Comment 5.) For reasons discussed in Part IV (subpart B, ''*DMIR* Precedent''), under existing Board precedent, the Board only considers the portion of the shipment moving by rail pursuant to a tariff. As such, the Board would apply this factor to the entire origin-destination route only if the rate (or rates) subject to challenge are also for the entire origin-destination route. The Board therefore declines to adopt NGFA's proposed change.

F. No Practical Build-Out Option

The Board proposed that a complainant would have to satisfy a prima facie factor that there is no practical build-out option. As explained in the *NPRM,* the term ''build-out'' has been used by the agency to refer to possible competitive alternatives that could be accessed if the complainant makes certain infrastructure investments. *NPRM,* EP 756, slip op. at 10. This would again be demonstrated by a short plain statement in a verified statement from an appropriate official, or other means, that the complainant has no practical build-out option due to physical, regulatory, financial, or other issues (or combination of issues).

Some shippers and shipper groups argue that the build-out factor is too complicated and should be eliminated entirely. Citing several cases,[30] SMA, MillerCoors, Indorama, and IMA–NA all argue that, in the past, these hypothetical build-out options have become overly burdensome to shippers and have been extremely difficult to resolve. (SMA Comment 11; MillerCoors Comment 12–13; Indorama Comment 11; IMA–NA Comment 11.) They argue

[26] ISRI was able to obtain some data from three of its members for a three-year period. For their top volume lanes, these shippers state that they used trucks for 15%, 22%, and 29% of their shipping volume, respectively. ISRI acknowledges that this is a small sample. (ISRI Comment 9–10.)

[27] The Board notes that volume for purposes of this factor would be based on the cumulative tonnage over the five-year period. Although not specifically addressed in the *NPRM,* no party raised any concern in the comments over how the measure over the five-year period would be calculated. The Board will therefore adopt this clarification as part of the final rules.

[28] The same would be true if the routing were reversed, in that the traffic is trucked from origin A to interchange X, and then railed from X to destination B.

[29] This would include instances in which the rate at issue is part of a broader transload routing and there is an alternate whole-route option. For example, suppose the rate at issue is part of a broader transload routing in which the traffic moves by rail from origin A to interchange B, and then by truck from interchange B to destination C. Suppose also that there is an alternate routing in which the traffic could move by rail from origin A to interchange X, and then by truck from interchange X to destination C. In that scenario, the alternate transload routing (A–X–C) would not match the rate at issue (A–B) and therefore should not be included in the truck volume. Although the alternate transload option (A–X–C) might be serving as a competitive alternative to the whole-route (A–B–C), for reasons explained in Part IV (subpart B, ''*DMIR* Precedent''), the Board's current precedent is to not consider such whole-route options in the market dominance analysis and whether to overturn such precedent is outside the scope of this proceeding.

[30] *Consumers Energy,* NOR 42142, slip op. at 295–96; *Seminole Elec. Coop.* v. *CSX Transp., Inc.,* NOR 42110 (STB served May 19, 2010); *Tex. Mun. Power Agency* v. *Burlington N. & Santa Fe Ry.,* 6 S.T.B. 573, 584 (2003); *W. Tex. Utils. Co.* v. *Burlington N. R.R.,* 1 S.T.B. 638, 651 (1996), *aff'd sub nom. Burlington N. R.R.* v. *STB,* 114 F.3d 206 (D.C. Cir. 1997).

that a rate that is competitive due to a potential build-out is unlikely to be challenged and, even if challenged, is unlikely to be disturbed. (SMA Comment 13; MillerCoors Comment 14; Indorama Comment 13; IMA–NA Comment 13.) They further argue that eliminating the build-out factor would be consistent with provisions of the RTP, as well as the Congressional directive in the Railroad Revitalization & Regulatory Reform Act of 1976, Public Law 94–210, section 202(d), 90 Stat. 31, 36, that the market dominance procedures be easily administrable. (SMA Comment 12–14; MillerCoors Comment 14–16; Indorama Comment 12–14; IMA–NA Comment 12–14.) AFPM states shippers and railroads will have very different ideas of what constitutes ''physical, regulatory, financial, or other issues'' that could serve as obstacles to resolving whether a build-out option exists.[31] (AFPM Comment 8; *see also* PRFBA Comment 2.) Although they do not advocate eliminating this factor, the Coalition Associations note that the Board has never found that a potential build-out constitutes effective competition. They further claim that any feasible build-out opportunity in a given case likely will have been the subject of a feasibility study or communicated to the railroad in rate negotiations in any event. (Coalition Associations Comment 17.)

Some shipper groups also take issue with aspects of the build-out factor. The Coalition Associations argue that it is ''confusing and appears to do little to reduce a complainant's burden'' and that the ''scope of evidence necessary to demonstrate the factor is unclear.'' (*Id.* at 16.) In particular, they assert that it is not clear if the complainant can satisfy the factor simply by making an assertion in the verified statement, or whether the complainant must also submit some explanation and supporting evidence. (Coalition Associations Comment 16–17; *see also* AFPM Comment 9.) The Coalition Associations point out that if a complainant does have to submit evidence, then this factor is really no different than what must be shown in a non-streamlined market dominance presentation. (Coalition Associations Comment 17.) Accordingly, the Coalition Associations again propose ''objective standards'' that could be used to satisfy the build-out factor. The standards proposed by the Coalition Associations are that a build-out would be physically or economically infeasible if it: (a) Would be longer than two miles;[32] (b) would require the acquisition or condemnation of developed property in residential, industrial, or commercial areas;[33] or (c) would traverse waters of the U.S. that are under the jurisdiction of the United States Army Corps of Engineers.[34]

In response, UP contends that the Coalition Associations are seeking more than clarifications, and instead asking the Board to ''adopt presumptions for resolving factual disputes about the existence of effective competitive alternatives.'' (UP Reply 3.) It states that ''the mere satisfaction of a prima facie factor should not itself be sufficient where a railroad offers actual evidence that a competitive alternative provides effective competition.'' (*Id.* at 3–4.) BNSF notes that in some instances its rates have been constrained by the potential for a build-out. (BNSF Reply, V.S. Miller 17.)

In rate cases, railroad arguments that potential build-outs are available can significantly complicate market dominance presentations. *NPRM,* EP 756, slip op. at 10. However, here the Board seeks to increase simplicity, expediency, and efficiency in rate cases (*see* 49 U.S.C. 10101(2) and (15)) while at the same time allowing competition and the demand for services to establish reasonable rates for rail transportation (*see* 49 U.S.C. 10101(1)). Build-out options can serve, and sometimes have served, as a constraint on railroad pricing. For example, in *Seminole Electric Cooperative* v. *CSX Transportation, Inc.,* Docket No. NOR 42110, the defendant argued that there was effective competition through a barge/build-out combination, where the complainant would have needed to construct an unloading dock and a conveyor belt build-out to transport coal from the dock to its facility. (CSXT Reply, II–24 to II–33, *Seminole Elec.,* Jan. 19, 2010, NOR 42110.) Although the parties in that proceeding settled before the Board could issue a decision, the Board held an oral argument specifically on the issue of market dominance in the rate proceeding, suggesting that the build-out issue required close examination. *Oral Argument,* EP 693, slip op. at 1–2 (STB served May 19, 2010). Additionally, in merger cases, shippers often ask for conditions to preserve the competition that they claim exists due to their potential to build out to a competing carrier. *See, e.g., Norfolk S. Ry.—Acquis. & Operation—Certain Rail Lines of Del. & Hudson Ry.,* FD 35873 et al., slip op. at 33–35 (STB served May 15, 2015); *Genesee & Wyo. Inc.—Control—RailAmerica, Inc.,* FD 35654, slip op. at 5–6 (STB served Dec. 20, 2012); *Canadian Nat'l Ry.—Control—EJ&E W. Co.,* FD 35087 et al., slip op. at 13–14 (STB served Dec. 24, 2008).

Shippers also argue that if the railroad's rate is effectively competitive due to a build-out, a shipper is unlikely to challenge the rate. But a shipper and railroad may have different views of the practicality of a build-out option and therefore whether the rate is effectively competitive. *See* Oral Argument Tr. 10:12–15, June 30, 2010, *Seminole Elec.,* NOR 42110 (complainant asserting that threat of build-out option did not affect defendant carrier's pricing); *id.* at 57:15–20 (defendant carrier asserting that potential build-out option had caused it to offer a lower rate); *see also Tex. Mun. Power Agency* v. *Burlington N. & Santa Fe Ry.,* 6 S.T.B. 573, 583–84 (2003), *recon. granted in part,* 7 S.T.B. 803 (making minor adjustments to rate prescription). Because the Board already considers whether build-outs are an effective form of competition, they should remain part of the market dominance analysis in the streamlined approach.

The streamlined approach should help eliminate overly costly and complex litigation in cases where build-out options are clearly impractical. In cases where a railroad argues that there are practical build-out options, the procedural constraints that are part of the streamlined approach—including page limits on filings and the complainant's option to utilize a hearing

[31] In addition, NTU offers a general suggestion that the Board work with other governmental agencies to reduce regulatory barriers to build-outs. (NTU Comment 4–5.) NTU does not, however, propose any modification to the proposed regulations.

[32] The Coalition Associations argue that build-outs exceeding two miles are generally cost-prohibitive. They base this claim on an analysis of Road Property Investment (RPI) costs from some of the Board's Full-SAC rate cases. According to the Coalition Associations, their analysis shows that a two-mile build-out would cost over $4 million, which would be greater than the relief in small rate cases or the litigation costs of large rate cases. (Coalition Associations Comment 17–18.) Similarly, FRCA supports the idea of a dollar limit on the cost of the build-out. (FRCA Comment 2.) In addition, USDA states that the Board could be more explicit about delineating at what distance a build-out is a practical, effective constraint. (USDA Comment 10.)

[33] The Coalition Associations claim the high cost for land acquisition in such areas is supported by data provided by the RRTF Report. (Coalition Associations Comment 18–19.) AFPM agrees that a shipper's ability to access land and obtain required permits for a build-out introduces too much uncertainty, though it supports simply eliminating this factor entirely rather than creating a more specific criterion. (AFPM Comment 9.)

[34] The Coalition Associations argue that such build-outs would go through wetlands and thus require expensive infrastructure and be subject to costly environmental review and mitigation. (Coalition Associations Comment 19.)

before an ALJ[35]—should help ensure that the complexity and cost of litigating the practicality of those options remains reasonable. The ALJ hearing option could be particularly useful in cases where a railroad challenges whether there are physical, regulatory, financial, or other issues (or a combination of issues) preventing a build-out, as the ALJ could directly question those assertions and challenge any potentially frivolous claims. In this way, the Board intends to achieve an appropriate balance between the competing RTP factors of allowing, to the maximum extent possible, competition and the demand for services to establish reasonable transportation rates, *see* 49 U.S.C. 10101(1), while still maintaining reasonable rates where there is an absence of effective competition, *see* 49 U.S.C. 10101(6).

As an initial matter, the Board clarifies that the practical build-out factor is not limited only to potential rail expansions, as the Coalition Associations seem to imply. (*See* Coalition Associations Comment 17–18 (proposing a presumption that build-outs longer than two miles are infeasible based on costs per *track* mile).) In the *NPRM,* the Board stated that build-outs ''refer to possible competitive alternatives that could be accessed if the complainant makes certain infrastructure investments.'' *NPRM,* EP 756, slip op. at 10. As such, any alternative option that would require an infrastructure investment should be considered as part of this factor, regardless of the transportation mode, as it is in a non-streamlined market dominance analysis. For example, any potential barge alternative that requires infrastructure investment should be addressed by the complainant under the build-out factor, not the barge competition factor.

The Board finds that it would be inappropriate to presume that a build-out option is not practical in the specific scenarios suggested by the Coalition Associations; instead, those scenarios must be evaluated on a case-by-case basis. While the Coalition Associations argue that a build-out option that exceeds two miles in length would cost at least $4 million and therefore be cost-prohibitive, there may be situations where the cost of a two-mile build-out would be viable given the amount in dispute. For example, if the shipper is seeking rate relief of $200 million over a 10-year period, then a $4 million build-out may not be a cost-prohibitive alternative. Accordingly, having the shipper submit a verified statement explaining why build-outs are not practical is the better course.

Commenters have raised concerns over the level of detail about potential build-outs that must be included in the verified statement. In the *NPRM,* the Board stated that the verified statement should explain in a ''short plain statement'' that it has no build-out options due to ''physical, regulatory, financial, or other issues (or combination of issues).'' *NPRM,* EP 756, slip op. at 11. As noted, because this factor is intended to ''limit the evidentiary burden and simplify the requirement for complainants,'' *id.,* complainants need not provide supporting evidence, such as any studies undertaken or other documentation, as part of their submission to the Board. However, the complainant must provide more than a conclusory statement that a build-out is not practical by simply citing to one of the barriers listed by the Board without further explanation. In requiring a short plain statement, the Board anticipates that the complainant's official would describe, in a page or two, what the physical, regulatory, financial, or other issues are that make a build out impractical. For example, in an especially obvious scenario, if a shipper satisfies the other factors and is located 50 miles from the nearest waterway, rail line, or pipeline,[36] an official might explain that, because of the physical location of the complainant's facility and the disproportionately high costs to construct infrastructure to cover this distance, build-out options are not practical.

Under the streamlined approach, a more detailed explanation should not be necessary, as the impracticality of the build-out options should be clear from the verified statement. However, complainants must remember that if the practicality of a build-out option is not clear and it elects to use the streamlined approach, it runs the risk that the railroad may challenge whether the build-out factor has been satisfied on reply. In that instance, the complainant would have to defend why that build-out option is not practical on rebuttal.[37]

G. Other Proposed Factors and Approaches

In addition to the prima facie factors proposed by the Board, some commenters proposed additional factors. Some commenters also offered variations of the streamlined market dominance approach.

1. Absence of Pipeline Competition

AAR, UP, and BNSF state that the Board should include lack of pipeline competition as a prima facie factor. (AAR Comment 10; UP Comment 12 n.4; BNSF Comment 14–15). BNSF argues that pipelines can be a constraint on its rates and states that products such as crude oil, propane, and other refined petroleum products often move by rail or pipeline. (BNSF Comment 14.) The Coalition Associations state that they do not object to adding a pipeline factor. (Coalition Associations Reply 28.) No other party addressed this issue.

The Board agrees that there may be circumstances where pipelines could serve as a competitive transportation alternative to rail. Adding a factor to account for pipeline competition should not be burdensome: Only certain commodities can move by pipeline and, in most cases, it should not be difficult to determine whether a facility has practical physical access to pipeline competition. Moreover, no commenter has objected to inclusion of pipeline competition as a consideration in the streamlined approach.

Accordingly, the Board will adopt an additional prima facie factor stating that the complainant must demonstrate that there is no pipeline competition as part of its prima facie showing under § 1111.12(a).[38] *See* Final Rule below. As with intramodal, barge, and build-out options, a complainant can demonstrate that this factor is met through a verified statement from an appropriate official that the complainant does not have practical physical access to pipeline competition. When addressing why there is no practical physical access to pipeline competition in the verified statement, the complainant must ensure it has accounted for all types of pipeline access. In addition, because pipelines will be considered part of the market dominance analysis, a shipper must address whether it has practical pipeline build-out options as part of the build-out factor.

[35] Page limits and the ALJ hearing are discussed below, in Part III.

[36] As discussed below, the Board is adding the absence of pipeline competition as an additional prima facie factor.

[37] AAR asks the Board to clarify what information must be contained in the proposed verified statement from shippers and specifically requests that complainants be required to disclose what steps it has taken to evaluate build-out options and submit all studies it has undertaken. (AAR Comment 11.) This request is addressed in Part III (subpart C, ''Disclosures and Verified Statements'').

[38] As the Board has stated with respect to the intramodal and barge competition factors, consistent with 49 U.S.C. 10707(a), the pipeline competition factor also relates to the absence of effective competition.

2. Rate Benchmarking

As discussed above, the TRB Professors contend that R/VC ratios are unreliable due to flaws in URCS but acknowledge that the Board cannot replace that requirement because it is mandated by statute. As a result, they recommend that the Board supplement the R/VC ratio requirement by adding a prima facie factor that uses rate benchmarking, similar to a concept that they recommended in the *TRB Report.*[39] They claim that using rate benchmarking would provide an indicator of railroad market power superior to R/VC ratios derived from URCS. (TRB Professors Comment 4.)

USDA also advocates use of a competitive benchmarking factor, though it goes further by proposing that the Board replace all the prima facie factors with benchmarking (except for the R/VC of 180%-or-greater factor, which is statutorily required).[40] (USDA Comment 10–11; *see also* Farmers Union Reply 4–5 (supporting USDA proposal).) Dr. Ellig opposes USDA's proposal to replace the prima facie factors with benchmarking, arguing that it could lead to findings of market dominance where shippers do in fact have competitive options. (Ellig Reply 4.) Dr. Ellig instead proposes that the Board first determine if rates are above a benchmark threshold (which would need to be determined by the Board). If the rate is above that benchmark threshold, the Board could then conduct a streamlined or non-streamlined market dominance inquiry. (*Id.* at 4.)

The Board declines to adopt a benchmarking approach similar to that proposed by the TRB for purposes of the streamlined market dominance approach. The Board finds that the prima facie factors that it is adopting account for various alternative modes of transportation and would be strong indicators where market dominance is reasonably likely. Adopting a benchmarking factor, which would require significant resources to develop, would therefore not add sufficient value in this instance. The Board will therefore not incorporate benchmarking into the streamlined market dominance approach.

3. R/VC Ratio Approach

A few commenters propose that, rather than rely on the proposed factors, the Board adopt a streamlined market dominance approach in which a complainant may make a prima facie showing by establishing that a movement has an R/VC ratio over a certain level. (PRFBA Comment 1 (proposing an R/VC ratio greater than the Board's annual Revenue Shortfall Allocation Methodology (RSAM) calculation as floor to show market dominance); AFPM Comment 5 (proposing either 280% or RSAM as floor); USDA Comment 11 (proposing 200% as floor); *see also* Farmers Union Reply 4, 5.) AFPM argues that this process would quickly and clearly show whether a rail carrier is market dominant. (AFPM Comment 5; *see also* USDA Comment 11 (arguing the process would be accessible and straightforward).)[41]

The Board will reject proposals to use an R/VC ratio in lieu of specific factors. These commenters do not provide support for the R/VC ratios that they have selected as threshold R/VC levels. Moreover, an R/VC ratio above 180%, by itself does not indicate clearly whether the complainant lacks effective competition from other modes of transportation. The Board also finds that it would not be reasonable to base a market dominance finding on a single factor. *See McCarty Farms* v. *Burlington N. Inc.,* 3 I.C.C.2d 822, 832 (1987) (''[E]vidence that rail revenues substantially exceed costs by itself does not indicate market dominance. . . .'').

4. ''À la Carte'' Approach

The Coalition Associations propose a variation on the streamlined approach, which they refer to as an ''à la carte'' approach. (Coalition Associations Comment 7–8.) According to the Coalition Associations, each of the proposed prima facie factors ''falls neatly within one of the three modal elements of qualitative market dominance: The 500-mile and 10% trucking factors address only the truck competition element; the intramodal and build-out factors address only the intramodal competition element; the barge factor addresses only the barge competition element.'' (*Id.* at 8.) Therefore, the Coalition Associations argue that a complainant should not be prevented from using a prima facie factor related to one modal element due to its inability to satisfy a prima facie factor related to a different modal element. (*Id.*) Instead, the Coalition Associations propose that complainants be permitted to demonstrate the prima facie factors for as many modal elements as possible and submit more extensive evidence to demonstrate market dominance for any remaining modal elements. (*Id.*) UP contends that the ''à la carte'' streamlined approach is not a logical outgrowth of the *NPRM.* It also argues that the approach is no different than what happens in practice today, in that parties generally focus their evidence on realistic competitive alternatives. (UP Reply 3.)

The Board declines to adopt the ''à la carte'' approach at this time. The Coalition Associations' proposal does not explain the procedural rules that it believes would apply to the ''à la carte'' approach and regardless, the Board has concerns about how this proposal would work in practice. Moreover, this approach could add complexity to the market dominance analysis, with some factors being presented under the streamlined approach and others being presented under the non-streamlined approach. For these reasons, the ''à la carte'' approach will not be adopted here.

5. Product and Geographic Competition

AAR, UP, and BNSF all argue that the streamlined approach should include a factor that would take into account product and geographic competition. (AAR Comment 10; UP Comment 13; BNSF Comment 12–13.) AAR argues that the Board should add a factor to limit the streamlined approach to instances where the shipper has shipped more than a significant percentage (*e.g.,* 75%) of the commodity at issue to the destination in the case.

[39] The TRB Professors state that ''[m]any rail rates are now competitively determined, and those rates can be used as benchmarks in rate review proceedings.'' (TRB Professors Comment 2.) A more detailed discussion of rate benchmarking as proposed by the TRB Professors is available in Chapter 3 of the *TRB Report.*

[40] USDA further argues that the prima facie factors are flawed because the ''fact that a shipper has alternative options at a given rail price does not mean that the railroad has no market power in setting that price. A market dominant railroad will set its price just below the price of the alternative option, say trucking, but the price of trucking may still be significantly above the railroad's cost of the move. Thus, even though trucking is a substitute for rail at the railroad's set price, the railroad could still be market dominant.'' (USDA Comment 10.) The prima facie factors are intended to identify those cases where market dominance is clear on its face. In the cases identified by USDA, where rail is priced just below the non-competitive trucking rate, the shipper still has the option of utilizing the non-streamlined market dominance approach, in which it can explain why trucking may not be competitive with rail.

[41] USDA notes while this process might be overly inclusive, it is better for the Board to err on the side of ''false positives,'' which it describes as an instance in which a railroad is found to be market dominant when it is not, while a ''false negative'' is when a railroad is found not be market dominant when it is. (USDA Comment 11.) USDA states that, in cases of false positives, the merits case on rate reasonableness still serves as a safeguard against the railroad having to pay rate relief. (USDA Comment 8, 11.) But the availability of the non-streamlined market dominance approach for a shipper that has the potential of getting a false negative (*i.e.,* a shipper who is ineligible to use the streamlined market dominance approach) eliminates the concern associated with quantitative false positives and false negatives.

(AAR Comment 10.) BNSF proposes that shippers would submit a certification that there is no product or geographic competition by a knowledgeable shipper business representative and that railroads would submit evidence of product or geographic competition on reply. (BNSF Comment 13.) The TRB Professors also recommend, as they did in the *TRB Report,* that the Board allow evidence on product and geographic competition. They state that excluding potentially relevant evidence puts fairness and accuracy at risk. (TRB Professors Comment 3–4.)

The Coalition Associations, ISRI, and WCTL oppose including product and geographic competition as part of the streamlined approach and argue that the proposals to do so do not address the difficulties that led the Board to eliminate these factors, as noted below. (Coalition Associations Reply 31–34; ISRI Reply 3–4; WCTL Reply 2–3.) The Coalition Associations also argue that there is no need to add product and geographic competition because a ''shipper is unlikely to challenge a rate that is effectively constrained by product and geographic competition because the cost of challenging the rate is high compared to the potential relief.'' (Coalition Associations Reply 34.)

The Board will reject the proposals to add a product and geographic competition component to the streamlined approach. The Board has found that ''the time and resources required for the parties to develop, and for [the Board] to analyze, whether it would be feasible for a shipper to change its business operations (by changing its suppliers, customers, or industrial processes) so as to avoid paying the challenged rail rate can be inordinate.'' *Mkt. Dominance Determinations—Prod. & Geographic Competition* (*Mkt. Dominance 1998*), 3 S.T.B. 937, 948 (1998) *remanded sub nom. Ass'n of Am. R.Rs.* v. *STB,* 237 F.3d 676 (D.C. Cir. 2001), *pet. for review denied sub nom. Ass'n of Am. R.Rs.* v. *STB,* 306 F.3d 1108 (D.C. Cir. 2002). The goal of the streamlined market dominance approach is to reduce the burden on parties and expedite proceedings, a goal that would not be met by reintroducing a requirement that the agency has repeatedly found to be too burdensome as part of the non-streamlined approach. *See, e.g., Pet. of the Ass'n of Am. R.Rs. to Inst. a Rulemaking Proceeding to Reintroduce Indirect Competition as a Factor Considered in Mkt. Dominance Determinations for Coal Transported to Util. Generation Facilities,* EP 717, slip op. at 9 (STB served Mar. 19, 2013) (''[A]nalyzing and adjudicating a contested allegation of indirect competition is rarely straightforward and would require a substantial amount of the Board's resources to examine matters far removed from its transportation expertise and to determine if indirect competition effectively constrains rates to reasonable levels. . . .'').[42]

Part III—Procedural Issues

A. Applicability to Different Rate Reasonableness Methodologies

AAR, BNSF, and UP argue that the streamlined approach should be limited to only smaller rate cases. AAR would limit the streamlined approach to smaller-value cases challenged under the simplified procedures and cases with fewer than 10 origin/destination pairs, arguing that, consistent with the Board's stated goals, the Board should implement the streamlined market dominance procedures only in cases where the cost of a full presentation is not warranted due to the value or complexity of the case. (AAR Comment 7.) BNSF expresses concern that the streamlined approach would oversimplify the market dominance analysis of a complex case involving a large shipper, and therefore proposes a 1,000 carloads-per-year cap for shippers to be able to use the streamlined approach, though it notes that other caps based on revenue or market share could work as well. (BNSF Comment 10–11, BNSF Reply, V.S. Miller 16–17.) BNSF claims that, in its experience, ''[o]nce a shipper's volume exceeds 1,000 carloads, the shipper's leverage with a rail carrier changes'' and that such shippers have ''multiple ways to exercise market power,'' such as through commercial discussions and negotiations. (BNSF Reply, V.S. Miller 16–17.) UP states that it does not object to use of the streamlined approach for Simplified-SAC or Three-Benchmark cases, but it does object to its use in Full-SAC cases.[43] (UP Comment 1–2.) UP argues that the streamlined approach would not save time in Full-SAC cases, as market dominance and rate reasonableness would still be litigated simultaneously, not sequentially. (UP Comment 13.) UP also claims that the Board cites no evidence that any shipper who might file a Full-SAC case has been dissuaded by the cost of addressing market dominance. (UP Comment 14.) UP also disagrees with the Board's conclusion that shippers are at a disadvantage in addressing market dominance on opening, noting that the shipper knows more about its transportation alternatives than the railroad. UP claims the streamlined approach would also encourage wasteful litigation by allowing shippers to file cases with low up-front costs and impose the costs of developing market dominance evidence on railroads. (UP Comment 14.)

Shipper interests disagree with requests to limit the applicability of the streamlined approach. NGFA argues there is no basis for the limitation on the streamlined approach proposed by AAR. NGFA asserts that the streamlined market dominance approach should be available for use by any complainant filing a rate case. (NGFA Reply 9.) The Coalition Associations dispute BNSF's claim that large shippers can leverage competitive movements to protect against unreasonable rates and argue that the streamlined approach should be available to large shippers. (Coalition Associations Reply 12–14 (arguing that railroads are usually willing to lose competitive traffic rather than lower the rate on their non-competitive traffic).) The Coalition Associations also challenge UP's assertion that shippers are not dissuaded from bringing Full-SAC cases because of the costs associated with the market dominance inquiry. (Coalition Associations Reply 10–12.) They argue that unnecessary litigation burdens are a problem in Full-SAC cases because the high cost of a non-streamlined analysis reduces any relief the complainant might win. Conversely, ''[w]hen complainants lose, it is a multimillion-dollar penalty for making a good-faith claim.'' (*Id.* at 11 (footnote omitted).) The Coalition Associations also dispute UP's claim that the cost to shippers of preparing initial market-dominance evidence will be lower than the cost to railroads. (Coalition Associations Reply 10–11.)

The Board is not persuaded that it should limit the streamlined market dominance approach to smaller rate disputes. BNSF argues that the streamlined approach should be limited to small cases to ''avoid inappropriate interference in rail markets.'' (BNSF Comment 2.) However, as discussed in Part I, the streamlined approach is not less accurate than the non-streamlined approach, and therefore does not risk the negative market impacts raised by

[42] UP also proposes that the Board ''develop[] factors a shipper must overcome with evidence before railroads are even required to respond to complaints.'' (UP Comment 12–13.) However, the streamlined approach adopted here is intended to adequately ensure that only proceedings in which market dominance has been shown proceed to a determination of rate reasonableness.

[43] UP also objects to using the streamlined approach in FORR cases. Because FORR remains pending before the Board in Docket No. EP 755, the Board will not address those comments here.

BNSF. Rather, the Board is simply reducing the litigation burden on complainants when they can show that market dominance is more readily apparent and therefore does not require as extensive an evidentiary showing. The railroad still has a full opportunity to refute the complainant's showing under the streamlined market dominance approach. Accordingly, a finding of market dominance under the streamlined approach is no less valid than a finding of market dominance under the non-streamlined approach.

BNSF also asserts that larger shippers generally have greater leverage in rate negotiations. (BNSF Reply, V.S. Miller 16–17.) However, even if true, that in and of itself does not justify limiting large shippers from using the streamlined approach if they can satisfy the prima facie factors. The same holds true for AAR's argument that the streamlined approach should be limited to cases where the amount at stake is too low to justify the cost of a non-streamlined presentation, (AAR Comment 7), and UP's argument that shippers are not dissuaded from bringing Full-SAC cases because of the costs of addressing market dominance (UP Comment 14). The litigation costs associated with a non-streamlined market dominance presentation could act as a barrier to bringing a rate proceeding for any shipper; while the streamlined approach may be particularly useful for shippers with fewer resources, the streamlined approach would enhance the accessibility of the Board's rate review procedures more broadly. Even for shippers with greater resources, if the costs of pursuing a complaint would consume most or all of the expected recovery, then the remedy would be a hollow one for the complainant. A Full-SAC presentation would not be cost-effective unless the value of the expected remedy, at a minimum, exceeds the expected cost of obtaining the remedy. If the streamlined approach can reduce litigation costs in Full-SAC cases just as effectively and appropriately as in smaller cases, there is no reason not to allow use of the approach just because the shipper may be able to bear the cost of the non-streamlined approach.

UP's additional arguments that the streamlined approach should not be used in Full-SAC cases lack merit for the same reasons. Even if the streamlined approach does not reduce the length of the procedural schedule, the approach should have the benefit of reducing litigation costs for both parties. Finally, the Board disagrees with UP's claim that the streamlined approach will encourage ''wasteful'' litigation that may be intended to force settlements from railroads. If a case brought under the streamlined approach is not valid, railroads should easily be able to defend themselves against such claims. If the railroad does refute any of the factors or otherwise shows that effective competition exists, the shipper would be precluded from challenging the same rate again for several years, as discussed in more detail in Part IV (subpart C, ''Preclusive Effect of Dismissal''). A rate case is a significant undertaking, not just in terms of costs and resources, but in the way that it can negatively affect the business relationship between a shipper and rail carrier. Accordingly, the Board is not convinced that shippers are likely to file cases that they do not believe have merit, even when the costs of doing so are reduced.[44]

B. Schedule

NGFA requests that the Board clarify at what point the Board will ''make the determination that a complainant has met the requirements for a prima facie showing of market dominance and may proceed under the streamlined approach, as opposed to the final determination that the complainant has met its burden of demonstrating market dominance[.]'' (NGFA Comment 7.) The Board does not anticipate issuing an intermediate decision addressing the sufficiency of a complainant's prima facie market dominance case as a matter of course in each proceeding. After the close of the record, the Board would issue a decision on market dominance as part of its final decision. The Board may issue a decision earlier if its finds that the case should be dismissed for lack of market dominance.

The Coalition Associations propose that complainants have the option of litigating market dominance on an expedited, bifurcated procedural schedule, rather than simultaneously with the rate reasonableness portion of the case (though under the Coalition Associations' proposal, market dominance and rate reasonableness would still be decided in a single final decision). (Coalition Associations Comment 20–23.) Parties may already request bifurcation in individual rate case proceedings, and they may continue to do so if using the streamlined approach. *See, e.g., M&G Polymers USA, LLC* v. *CSX Transp., Inc.,* NOR 42123 (STB served May 6, 2011).[45]

Finally, some commenters suggest that the Board adopt procedural time limits for pleading the streamlined market dominance approach. (TRB Professors Comment 3; PRFBA Comment 2.) The *NPRM* proposed to incorporate the streamlined market dominance proposal into the standard procedural schedules governing rate cases. The Board finds that it is not necessary to establish separate procedural time limits for pleading the streamlined approach. Parties are free to request alternate procedural schedules, just as they may do under the non-streamlined approach currently. Moreover, the page limits the Board is adopting for streamlined market dominance filings is intended to encourage efficiency by the parties. *See NPRM,* EP 756, slip op. at 12 (stating that page limits will encourage parties to focus their arguments on the most important issues.)

C. Disclosures and Verified Statements

Under the Board's existing regulations, complainants in Simplified-SAC and Three-Benchmark cases must provide to the defendant, with their complaints, the URCS Phase III inputs used in preparing the complaint, ''[a] narrative addressing whether there is any feasible transportation alternative for the challenged movements,'' and ''all documents relied upon in formulating its assessment of a feasible transportation alternative and all documents relied upon to determine the inputs to the URCS Phase III program.'' 49 CFR 1111.2(a), (b). In the *NPRM,* the Board proposed expanding the applicability of these disclosure requirements to include any case in which a complainant utilizes the streamlined market dominance approach. *See NPRM,* EP 756, slip op. at 11.

WCTL objects to the Board's proposal to require complainants to make these disclosures in large rate cases where the streamlined approach is used. WCTL argues that, in such cases, issues regarding the URCS inputs are best addressed and resolved through technical conferences. (WCTL Comment 11.) WCTL also objects to requiring disclosure in large rate cases of all the market dominance evidence that the complainant relied upon, as this will

[44] When the filing fee for a Full-SAC case was reduced from $178,200 to $350 and for a Simplified SAC case from $10,600 to $350 in 2008, there was no noticeable increase in the number of rate cases filed at the Board. *See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2007 Update,* EP 542 (Sub-No. 14) (STB served Jan. 25, 2008).

[45] If requesting bifurcation, parties need to address how the bifurcated schedule would impact the procedural timelines set out by statute, *see* 49 U.S.C. 10704, and the applicable Board regulations for the rate review process involved, *see, e.g.,* 49 CFR 1111.9, 1111.10.

add a substantial new burden on complainants that may discourage them from using the streamlined approach. WCTL claims that the disclosures are also unnecessary, as defendants can still obtain relevant evidence through discovery. (*Id.* at 12.) Lastly, WCTL asserts that a shipper in a large rate case may not decide whether to use the streamlined approach until it completes its market dominance discovery from the defendant carrier. (*Id.* at 13.)

UP argues that these disclosure requirements should be modified for cases in which the complainant elects to use the streamlined market dominance approach. (UP Comment 7–9.) UP argues that shippers using the streamlined approach will produce a narrower selection of documents than under the non-streamlined approach, because, according to UP, the proposed regulation reduces the transportation alternatives the shipper must initially consider. (*Id.* at 8.) UP claims that this could prevent railroads from obtaining relevant documents, to which UP states they are entitled, concerning effective competition. Accordingly, UP proposes different disclosure requirements.[46] It claims that its proposed disclosure requirements would be easy for a shipper to comply with, as they involve producing evidence that the complainant has likely already reviewed in deciding whether to bring a rate case. UP also claims that these requirements would expedite proceedings and reduce litigation. (*Id.* at 8.)

AAR also suggests that the shipper disclose all supporting information for its assertions of market dominance along with the filing of its complaint. In particular, AAR argues that complainants should be required to disclose what steps they have taken to evaluate the intramodal, barge, build-out, and pipeline options, including any studies they have undertaken, as part of the verified statement that they may rely on to demonstrate that these factors have been met. (AAR Comment 11; *see also* UP Comment 9 (arguing for broader disclosure requirements, including shipper studies of transportation alternatives, in streamlined approach cases).) AFPM asks the Board to clarify what type of documentation would be acceptable and define or list who it deems to be ''appropriate officials'' for purposes of submitting the verified statement. (AFPM Comment 6.)

The Coalition Associations state that they do not object to the concept of different disclosure requirements for the streamlined approach, but they believe that the proposals made by UP and AAR are too broad. (Coalition Associations Reply 23–24.) Accordingly, the Coalition Associations offer modified versions of the disclosure requirements suggested by UP. (*Id.* at 24.)[47]

After reviewing the comments and upon further consideration, the Board will not amend its regulations to extend the existing disclosure requirements of 49 CFR 1111.2(a) and (b) to all cases in which the streamlined approach is used, as it proposed to do in the *NPRM.*[48] The Board recently considered adding a disclosure requirement in Full-SAC cases but, after receiving input from stakeholders, concluded that allowing parties to engage in discovery would be more beneficial. *See Expediting Rate Cases,* EP 733, slip op. at 6 (STB served Mar. 30, 2017). The Board similarly finds that allowing for discovery in other non-simplified cases would be more effective. Moreover, the Board agrees with WCTL that shippers may not be able to decide whether to pursue a streamlined market dominance approach until discovery has been completed. Accordingly, the Board will maintain the separate evidentiary processes for simplified and non-simplified cases.[49]

The Board also declines to modify the disclosure requirements as they pertain to simplified standards cases (*i.e.,* Simplified-SAC and Three-Benchmark) in which the streamlined market dominance approach is used, as suggested by UP and the Coalition Associations. The Board has not proposed to change the language of 49 CFR 1111.2(a) or (b) that set forth the disclosure requirements in such cases. Accordingly, the language of § 1111.2—even when read in conjunction with § 1111.12 establishing the prima facie factors—would still require complainants to disclose documents pertaining to any feasible transportation alternative, even ones that are not specific to the prima facie factors. As a result, the information that must be disclosed in simplified standards cases will remain the same, regardless of which market dominance approach is used.

The Board also will not adopt AAR's suggestion to require complainants to disclose the steps they have taken to evaluate potential intramodal, barge, or build out options and submit all studies they have undertaken. As noted, complainants in Simplified-SAC and Three-Benchmark cases are already required to make certain disclosures regarding feasible transportation alternatives. Contrary to UP's assertion, the Board finds that, in Simplified-SAC and Three-Benchmark cases, these requirements are sufficient. For cases not brought under those simplified standards, a defendant can obtain access to any relevant evidence through discovery. In addition, the Board finds it is not necessary for a complainant to provide documentation with the verified statement. As explained in the Board's discussion of the build-out factor (*supra,* Part II, subpart F ''No Practical Build-Out Option''), the statement itself should be sufficient to demonstrate that the factors it supports have been met. While the Board will not preclude a complainant from submitting documentation if it wishes, the purpose of the streamlined approach is to reduce the litigation burden on complainants where a lack of effective competition is reasonably likely.

Lastly, in response to the AFPM's comment, the Board will add language to the regulation to clarify who constitutes an ''appropriate official'' to submit the verified statement. The official submitting the verified statement should be an individual who has either direct or supervisory responsibility for, or otherwise has knowledge or understanding of, the complainant's transportation needs and options. In the verified statement, the official should provide his or her title and a short description of his or her duties. These revisions will be made to § 1111.12(b), as set forth in the text of the final rule below.

[46] Specifically, UP proposes that a complainant disclose the following: (1) Information regarding any use by the shipper of transportation alternatives during the previous five years; (2) information regarding any studies or consideration of transportation alternatives during the previous five years; and (3) any transportation contracts that could have been used for the issue traffic during the previous five years. (UP Comment 7–8.)

[47] Specifically, the Coalition Associations propose that a complainant be required to disclose: (1) All shipments of the issue commodity by any mode made with any transportation provider other than the defendant railroad during the previous five years; (2) any transportation contracts that the complainant or its affiliates could have used to transport the issue traffic between the issue origin and issue destination and intermediate transloading points during the previous five years; and (3) all available studies or email correspondence in complainant's possession concerning transportation alternatives for movements of the issue commodity or commodities from each issue origin to the corresponding issue destination during the previous five years. (Coalition Associations Reply 24.)

[48] Accordingly, the *NPRM's* proposed regulation at 49 CFR 1111.12(c) will not be adopted.

[49] In *Expediting Rate Cases,* EP 733 (STB served Nov. 30, 2017), the Board adopted regulations that require complainants and defendants in non-simplified standards cases to certify in their complaints and answers, respectively, that they have served their initial discovery requests on the opposing party. 49 CFR 1111.2(f) and 1111.5(f).

D. Rebuttal Evidence and Burden of Proof

Several commenters raise concerns regarding what evidence would be permissible on rebuttal under the streamlined approach. The Coalition Associations request that the Board clarify that, under the streamlined approach, a complainant may submit ''any evidence on rebuttal that is responsive to a defendant's reply evidence on the same factors regardless of whether such evidence was available to the complainant on opening.'' (Coalition Associations Comment 23–24.)

AAR argues that the Board should not allow shippers to produce new evidence on rebuttal or at the ALJ hearing when the shipper has elected to use the streamlined approach. (AAR Comment 14–15.) It states, however, that ''[o]f course, if a defendant railroad introduces evidence unrelated to the prima facie factors in its market dominance submission, complainants should be allowed to provide appropriate rebuttal evidence.'' (*Id.* at 15.)

UP asserts that the Board should clarify its statement in the *NPRM* that the ''burden for establishing market dominance remains on the complainant.'' (*Id.* at 4 (quoting *NPRM,* EP 756, slip op. at 11.) UP argues that the prima facie factors should not be evidentiary presumptions and that if the railroad offers other evidence of effective competition on reply, and the shipper does not convincingly rebut that evidence with its own evidence beyond the prima facie factors, the railroad should prevail on market dominance. (UP Comment 6; UP Reply 4.) UP also requests that the Board clarify that, if a railroad offers evidence of effective competition (*e.g.,* the issue commodity can be trucked more than 500 miles or a transload option exists), the shipper can only submit evidence regarding the existence of this factor (*e.g.,* the shipper could submit evidence showing that 500 miles or transloading is not practical, but the shipper could not submit evidence that truck or transload pricing is not practical). (UP Comment 6; *see also* UP Reply 4.)

The Coalition Associations object to UP's argument that complainants should be precluded from offering rebuttal evidence in response to a railroad's reply arguments on effective competition. They argue that ''[i]f a complainant who uses the factors would lose its ability to submit evidence on rebuttal in response to a railroad argument that effective competition exists, the factors would have no benefit.'' (Coalition Associations Reply 21.)

As an initial matter, the Board reiterates that the ''streamlined market dominance approach would not result in a shifting of the burden for market dominance'' and that the ''burden for establishing market dominance remains on the complainant.'' *NPRM,* EP 756, slip op. at 11. In addition, there is no limitation on what relevant evidence the railroad may submit on reply to make its market dominance case. *Id.* at 12 (''Carriers would be permitted to refute any of the prima facie factors of the complainant's case, or otherwise show that effective competition exists for the traffic at issue.'').

In a non-streamlined market dominance inquiry, a complainant is free to rebut the railroad's reply argument and evidence with its own counterevidence, so long as it meets the Board's standard for proper rebuttal evidence in rate cases. *See Consumers Energy Co.* v. *CSX Transp., Inc.,* NOR 42142, slip op. at 4–5 (STB served Dec. 9, 2016) (holding that the complainant was entitled to offer corrective evidence to demonstrate that the defendant carrier's reply evidence on market dominance issues was unsupported, infeasible, or unrealistic). This standard would likewise apply to complainants using the streamlined approach. If the railroad submits evidence to show that one of the prima facie factors has not been satisfied or that there is otherwise effective competition, the complainant may provide evidence on rebuttal refuting the railroad's reply evidence, including evidence that was available to the complainant on opening. As in a non-streamlined market dominance case, the Board may strike argument or evidence as improper either upon its own motion or upon motion by the parties.

As explained in the *NPRM,* EP 756, slip op. at 11, a complainant that meets each of the required factors will have made a prima facie showing of market dominance. On reply, a defendant railroad can refute the prima facie showing by presenting evidence of, for example, effective competition from other transportation providers and, in doing so, might rely on evidence that the complainant itself would have provided in a non-streamlined market dominance inquiry. But contrary to UP's assertion, the fact the railroad might rely on such evidence in support of its own argument does not amount to a shifting of the burden of proof.[50]

E. Rebuttal Hearing

The Board proposed in the *NPRM* that, as part of the streamlined market dominance process, a complainant would have the option to request an evidentiary hearing conducted by an ALJ. *NPRM,* EP 756, slip op. at 12. The hearing would be on-the-record and could be conducted telephonically.[51] The purpose would be to ''allow the parties to clarify their market dominance positions under oath, and to build upon issues presented by the parties through critical and exacting questioning.'' *Id.* The Board received several comments relating to the ALJ hearing process.

1. Clarification

UP asks the Board to clarify certain language in the *NPRM* describing the ALJ hearing and written rebuttal. (UP Comment 11.) The *NPRM* at one point stated that, if the complainant requested the hearing, it would be conducted ''within seven days after the due date of complainant's rebuttal,''[52] *NPRM,* EP 756, slip op. at 12, which perhaps could be read to suggest that complainants would be required to submit a written rebuttal and then would also have the option to request the ALJ hearing. However, later, the *NPRM* stated that, ''[g]iven this hearing, the complainant may elect whether to file rebuttal evidence on market dominance issues . . . *or* to rely on the ALJ hearing to rebut the defendant's reply evidence.'' *Id.* (emphasis added). UP asks the Board to clarify and states that ''if complainants must choose one or the other, we have no objection to giving them that choice.'' (UP Comment 11.)

The Board clarifies that a complainant must choose whether to file a written rebuttal or request the ALJ hearing. An evidentiary hearing following written rebuttal is not required even under the non-streamlined approach and would increase the litigation costs for both the

[50] Additionally, the Board will not limit the complainant on rebuttal from relying only on evidence that it produced in discovery. There may be instances where the complainant has evidence available to it that is properly responsive to the defendant's reply argument but that was not sought in discovery (though the Board does not anticipate that there will likely be many instances where this occurs, particularly if the defendant has made sufficient discovery requests). Of course, if the complainant relies on evidence on rebuttal that was not produced in discovery, but which should have been, the defendant can file a motion to strike that evidence. *See Total Petrochems.,* NOR 42121, slip op. at 14 (granting defendant's motion to strike evidence on inventory carrying costs that complainant should have produced in discovery).

[51] As part of the *NPRM,* the Board proposed modifying its regulation that sets forth delegations of Board authority, 49 CFR 1011.6, to allow an ALJ to conduct such hearings.

[52] This language was similarly restated in the proposed rule of the *NPRM,* which included the proposed changes to the text of the regulations.

complainant and defendant. In contrast, allowing the complainant to utilize an ALJ hearing in lieu of a written rebuttal would give the complainant an additional means to potentially limit litigation costs while still allowing full development of the record. To the extent some parties expressed concern that the Board's proposal unfairly excludes defendants from requesting an ALJ hearing,[53] such concerns may have been attributed to the ambiguity in the *NPRM* as to whether the ALJ hearing was in addition to rebuttal or taking the place of complainant's written rebuttal. The Board further finds that the complainant, as the party with the burden of proof, should have the final evidentiary presentation (as it does in other aspects of the rate case process) and therefore it is not inappropriate for the complainant to be the party that can request an ALJ hearing in lieu of filing written rebuttal.

Given the clarification above that the ALJ hearing may be sought in lieu of submitting a written rebuttal, the Board will adopt as part of the final rule a requirement that the hearing be held on or about the same day that the written rebuttal on the merits of rate reasonableness is due. The complainant will be required to inform the Board in writing within 10 days after the reply is filed if it intends to utilize the ALJ hearing. This will give the complainant sufficient time to review the railroad's reply arguments on market dominance and assess whether it believes the written rebuttal or hearing is preferable, while still leaving the complainant sufficient time to draft its rebuttal filing if that is the option it chooses. This will also give the Board enough time to schedule the ALJ hearing, if necessary. The full text of the revised § 1111.12(d),[54] discussing the evidentiary hearing process, is set forth below.

2. Hearing Logistics

UP argues that the hearing proposal is too underdeveloped. Specifically, UP states that the *NPRM* does not identify who must participate in the hearing to provide testimony and does not address important issues of procedural fairness (*e.g.,* whether parties will conduct direct and cross-examination of witnesses, or whether only the ALJ will question witnesses). UP also questions if the ALJ hearing transcript can be produced within four days, as proposed by the Board. (UP Comment 11.) AAR expresses concern about which ALJs the Board would use and whether they have any substantive expertise in market dominance issues. Finally, AAR requests that the Board clarify that the ALJ will not rule on any market dominance issues and that the ALJ's role would be limited to presiding over examination of witnesses. (AAR Comment 14.) Shipper interests did not comment on these issues.

Based on the comments, the Board will make minor modifications to what was proposed in the *NPRM* concerning the ALJ hearing. It has been the Board's recent practice to participate in the federal ALJ Loan program to employ the services of ALJs from other federal agencies (currently the Federal Mine Safety and Health Review Commission) on a case-by-case basis to perform discrete, Board-assigned functions. In response to the comments received, the Board notes that it may, at its discretion, assign a member (or members) of Board staff to assist the ALJ.

With respect to the structure or format of the hearing, such matters will be left to the ALJ's discretion. However, the Board clarifies that the ALJ's role in the streamlined approach will be to preside over the evidentiary hearing (helping to gather information and evidence), while the ultimate market dominance determination will be made by the Board. The ALJ may, however, express his or her views of certain arguments or evidence.

Lastly, in response to UP's concern about the production of the hearing transcript, the Board will make a slight revision to the final rules. Specifically, the Board will increase the period of time by which it must provide the hearing transcript (either in draft or final form) from four days to five days.[55]

The full text of the revised § 1111.12(d), discussing the evidentiary hearing process, is set forth in below.

F. Page Limits

The Board proposed in the *NPRM* that if a complainant opted to use the streamlined market dominance approach, reply and rebuttal submissions would be limited to 50 pages, inclusive of exhibits and verified statements. *NPRM,* EP 756, slip op. at 12.

AAR suggests that the Board ''more carefully tailor the limitations on evidence to the complexity of the case'' and proposes ''a 50-page limit of narrative, excluding exhibits, for a one-lane case, with the limit increasing by 10 pages for each additional lane, up to a maximum of 100 pages.'' (AAR Comment 15.) UP argues that the Board should not impose any page limits on the railroad's reply. UP contends that the railroad replies will still need to contain all the same arguments and evidence as under the current market dominance approach or more given the need to address all of the prima facie factors. (UP Comment 10.) UP suggests that the Board's reference in the *NPRM,* EP 756, slip op. at 12 n.15, to limitations the Board has previously placed on petitions for reconsideration and briefs is misplaced because those filings are made only after parties have filed evidentiary submissions. (UP Comment 10; *see also* AAR Comment 15.)

The Coalition Associations oppose AAR's and UP's requests to expand the page limits. The Coalition Associations dispute UP's argument that a railroad would need to present the same arguments and evidence on reply as it does in a non-streamlined case. (Coalition Associations Reply 27.) FRCA expresses concern that 50 pages will not be sufficient for rebuttal filings, stating that a defendant may raise a multitude of issues and posit hypothetical and theoretical questions in its 50 pages that will require more than 50 pages for the complainant to rebut. (FRCA Comment 2; *see also* NCTA Comment 3.) In contrast, some shipper interests propose that the Board lower the page limit for replies and rebuttals to 25 pages. Their view is that a 50-page limit would leave too much room for overly burdensome arguments, whereas 25 pages would eliminate that abuse but still provide adequate opportunity to raise straightforward arguments. (SMA Comment 12–14; Indorama Comment 12–14; IMA–NA Comment 12–14.) AFPM states that it supports the 50-page limit. (AFPM Comment 10.)

A 50-page limit (including exhibits and verified statements) strikes the proper balance between narrowing the focus of the parties' arguments and providing sufficient opportunity for parties to address the substantive issues. Despite AAR's and UP's arguments, 50 pages should be sufficient to allow the railroad to address whether the prima facie factors are met and whether there is effective competition. Under the streamlined approach, the complainant is essentially making an opening presentation that market dominance is readily apparent. If that is not the case, then it should not require extensive argument and evidence for the railroad to refute this assertion. In response to

[53] AAR and BNSF argue that defendants should also be afforded an opportunity to request an ALJ hearing. (AAR Comment 14; BNSF Comment 15.).

[54] Section 1111.12(d) was proposed in the *NPRM* as paragraph (e) but is designated as paragraph (d) in the final rule.

[55] The Board typically receives a draft version of the hearing transcript and then reviews it for errors. The Board will endeavor to complete its review and provide the final transcript within the five-day period, but there may be occasions when it must provide the draft version pending its review.

AAR's concern that including exhibits in the 50-page would be problematic because such exhibits often include studies that approach or exceed 50 pages, the Board notes that parties can include excerpts from a study or request a waiver of the 50-page limit.[56]

The Board will also not adopt AAR's suggestion of expanding the page limit for cases with multiple lanes. The Board will respond to requests for a page limit extension in individual matters on a case-by-case basis.

As for FRCA's argument that more pages would be needed for the complainant's rebuttal, the purpose of the streamlined approach is to reduce the litigation costs for shippers. In deciding whether to use the streamlined approach, a shipper will have to weigh the risks and benefits of using the streamlined approach (including the 50-page limit on rebuttals).[57]

Finally, the Board rejects the argument from some shippers to lower the page limit to 25 pages. That limit would likely restrict a railroad's ability to present its arguments in sufficient detail and include the necessary supporting evidence, as well as the complainant's ability to rebut those arguments.

Part IV—Miscellaneous Issues

A. Limit Price Test

AAR and CSXT argue that the Board should affirmatively state that it will not apply the ''limit price test'' in any future rate case. (AAR Comment 16–17 (stating concern that the *NPRM,* by citing to a prior proceeding, implicitly endorsed the limit price methodology); CSXT Comment 3.) AAR and CSXT reiterate various arguments that railroads have raised in the past as to why the limit price methodology should be eliminated. (AAR Comment 16–17; CSXT Comment 3–4.) In response, the Coalition Associations state that the Board should not use this proceeding to either abandon or endorse the use of the limit price test and point out that interested parties have not had a full opportunity to comment on the issue. (Coalition Reply 35.)

The *NPRM* did not discuss the limit price test but merely cited to a prior proceeding for the general proposition that a qualitative market dominance analysis involves the determination of ''any feasible transportation alternatives sufficient to constrain the railroad's rates for the traffic to which the challenged rates apply.'' *NPRM,* EP 756, slip op. at 2. The limit price test's applicability to market dominance analyses in future cases is not under consideration as part of this proceeding, and as such the Board will not address this issue.

B. DMIR Precedent

AAR argues that, for the streamlined market dominance approach, the Board should not apply its *DMIR* precedent[58] in the same manner that the agency did in *DuPont 2014,* NOR 42125, slip op. at 25–29. (AAR Comment 12–14.) The *DMIR* precedent addressed how the agency should consider market dominance when the rate at issue is for a segment of a larger movement (a bottleneck segment). In *DuPont 2014,* the Board held that, under the *DMIR* precedent, the agency cannot consider, as part of the market dominance inquiry, transportation alternatives that cover the whole route when only the bottleneck segment rate is being challenged. *DuPont 2014,* NOR 42125, slip op. at 26–29 (also stating that this conclusion is consistent with a legislative directive to process rate complaints more expeditiously and the long-standing Congressional intent that market dominance be a practical determination made without delay; and stating the conclusion is consistent with the Board's statutory directives.) The Coalition Associations argue that the Board's decision in *DuPont 2014* was correct and that AAR is simply repeating many of the same arguments that were raised and rejected by the Board in *DuPont 2014.* (Coalition Associations Reply 17–20.)

The Board did not seek comment on the *DMIR* and *DuPont 2014* precedent as part of the *NPRM.* Moreover, AAR's objections to the *DMIR* and *DuPont 2014* precedent are not specifically tied to the streamlined approach, but to that precedent in general. As such, AAR's arguments go beyond the scope of this proceeding and the Board will not address the issue here.

C. Preclusive Effect of Dismissal

Olin and FRCA state that they ''disagree'' with the statement in the *NPRM,* EP 756, slip op. at 11, that if the Board finds that market dominance has not been shown by a complainant that has used the streamlined approach, the complainant may not submit a new rate case involving the same traffic using the non-streamlined market dominance presentation unless there are changed circumstances (or other factors under 49 U.S.C. 1322(c)). (Olin Comment 9–10, FRCA Comment 3.) Railroad interests did not comment on this issue. Board and court precedent hold that a complainant seeking to challenge the same rates at issue in a prior proceeding can do so only upon a showing of changed circumstance, new evidence, or material error. *See Burlington N. & Santa Fe Ry.* v. *STB,* 403 F.3d 771, 778 (D.C. Cir. 2005); *Intermountain Power Agency* v. *Union Pac. R.R.,* NOR 42127, slip op. 4 (STB served Nov. 2, 2012). Therefore, it is appropriate that a complainant cannot file a new complaint to challenge the same traffic where the Board has previously found no market dominance, absent a showing that one of these criteria are met.

D. Regulatory Impact Analysis

In his comment, Dr. Ellig proposes that the Board conduct a ''regulatory impact analysis'' (RIA), which is a form of a cost-benefit analysis, in this proceeding and in *Final Offer Rate Review,* Docket No. EP 755.[59] (Ellig Comment 3–4.) Dr. Ellig explains how the Board could apply the RIA framework to the rules proposed in these two proceedings. Other parties did not comment on the proposal. The Board is considering whether and how particular cost-benefit analysis approaches might be more formally integrated into its rulemaking processes.[60] While the Board need not conduct a formal RIA, the Board has, as described throughout this decision, carefully weighed the benefits and burdens associated with particular

[56] *See E.I. DuPont de Nemours & Co.* v. *Norfolk S. Ry.,* NOR 42125, slip op. at 2 (STB served June 11, 2014) (granting waiver of page limits on petitions for reconsiderations due to complexity of the case).

[57] NCTA argues that a defendant could require a complainant to provide more evidence than the complainant can provide within the limited scope of a 50-page rebuttal and therefore requests that ''restrictions also be placed on the amount of information that a defendant can request in its response to a complainant.'' (NCTA Comment 3.) To the extent that NCTA is proposing that restrictions be placed on the evidence that a defendant can obtain through discovery, the Board will deny this request and finds that the standards for discovery that would apply under the non-streamlined approach should continue to apply here, and that discovery disputes can be addressed on a case-by-case basis.

[58] AAR refers to ''the *DMIR* case.'' (*See, e.g.,* AAR Comment 12.) What the Board refers to here as ''the *DMIR* precedent'' is actually two decisions: *Minnesota Power, Inc.* v. *Duluth, Missabe & Iron Range Railway,* 4 S.T.B. 64 (1999) and *Minnesota Power, Inc.* v. *Duluth, Missabe & Iron Range Railway,* 4 S.T.B. 288 (1999).

[59] Dr. Ellig submitted his comment in this docket, *Final Offer Rate Review,* Docket No. EP 755, and *Expanding Access to Rate Relief,* Docket No. EP 665 (Sub-No. 2), as well as in *Association of American Railroads—Petition for Rulemaking,* Docket No. EP 752.

[60] *See Assoc. of Am. R.Rs.—Pet. for Rulemaking,* EP 752, slip op. at 1 (STB served Nov. 4, 2019); *see also Village of Barrington, Ill.* v. *STB,* 636 F.3d 650, 670–71 (D.C. Cir. 2011) (stating that ''neither the Board's authorizing legislation nor the Administrative Procedure Act requires the Board to conduct formal cost-benefit analysis.'').

aspects of the streamlined market dominance approach, which as noted below, has been designated as non-major. *See, e.g., supra,* at 3–4, 7–8, 10–11, 13, 22, 26–27. Further, in this proceeding, the Board is not creating a new right or remedy but is merely streamlining an existing process. As noted above, the Board does not expect the streamlined approach to change the outcome that would have been reached under the non-streamlined market dominance approach. Rather, it expects the rule to decrease the burden in potentially meritorious cases, including the burden that may have unnecessarily limited the accessibility of the Board's rate review processes and therefore dissuaded shippers from filing a case.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment. sections 601–604. In its final rule, the agency must either include a final regulatory flexibility analysis, section 604(a), or certify that the proposed rule would not have a ''significant impact on a substantial number of small entities,'' section 605(b). The impact must be a direct impact on small entities ''whose conduct is circumscribed or mandated'' by the proposed rule. *White Eagle Coop.* v. *Conner,* 553 F.3d 467, 480 (7th Cir. 2009).

In the *NPRM,* the Board certified under 5 U.S.C. 605(b) that the proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.[61] The Board explained that its proposed changes to its regulations would not mandate or circumscribe the conduct of small entities. Indeed, the proposal requires no additional recordkeeping by small railroads or any reporting of additional information. Nor do these proposed rules circumscribe or mandate any conduct by small railroads that is not already required by statute: the establishment of reasonable transportation rates when a carrier is found to be market dominant. As the Board noted, small railroads have always been subject to rate reasonableness complaints and their associated litigation costs, including addressing whether they have market dominance over traffic.

Additionally, the Board concluded (as it has in past proceedings) that the majority of railroads involved in these rate proceedings are not small entities within the meaning of the Regulatory Flexibility Act. *NPRM,* EP 756, slip op. at 13 (citing *Simplified Standards,* EP 646 (Sub-No. 1), slip op. at 33–34. Since the inception of the Board in 1996, only three of the 51 cases filed challenging the reasonableness of freight rail rates have involved a Class III rail carrier as a defendant. Those three cases involved a total of 13 Class III rail carriers. The Board estimated that there are approximately 656 Class III rail carriers. Therefore, the Board certified under 5 U.S.C. 605(b) that the proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.

The final rule adopted here revises the rules proposed in the *NPRM;* however, the same basis for the Board's certification in the proposed rule applies to the final rule. Thus, the Board certifies under 5 U.S.C. 605(b) that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

Paperwork Reduction Act

In this proceeding, the Board is modifying an existing collection of information that was approved by the Office of Management and Budget (OMB) under the collection of Complaints (OMB Control No. 2140–0029). In the *NPRM,* the Board sought comments pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3549, and OMB regulations at 5 CFR 1320.8(d)(3) regarding: (1) Whether the collection of information, as modified in the proposed rule, is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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, when appropriate. One comment was received, as discussed below.

In the only comment relating to the PRA burden analysis, Dr. Ellig questions the factual basis for the Board's estimate that there would be one additional complaint per year due to the new streamlined market dominance procedures. (Ellig Comment 12.) The Board appreciates Dr. Ellig's comment on this point. For most collection renewals, the Board uses the actual number of filings with the Board over the previous three years and averages them to get an estimated annual number of those filings to use in its PRA burden analysis. For new rules, however, the Board may not have historical data that allows for such averages, so it must estimate based on its experience, often considering analogous regulatory changes made in the past. Here, while the streamlined market dominance procedures are new, market dominance has long been a litigated issue in rate reasonableness cases. Based on its substantial experience with the complexities of prior market dominance litigation, and how such complexities had impacted the number of rate reasonableness complaints filed each year, the Board estimated that it would receive approximately one additional complaint due to the streamlined market dominance approach. As no party submitted any specific information that would lead to a more precise estimate, the Board continues to find that the streamlined approach to market dominance will likely lead to approximately one additional case per year.

Dr. Ellig also comments that the Board did not provide a source for its estimated PRA burden hours or non-burden costs (*i.e.,* printing, copying, mailing and messenger costs) for the existing types of complaints and the one additional complaint expected to be filed due to the new streamlined market dominance procedures. (*Id.*) These burden hours and non-burden costs were derived from the burden hours and non-burden costs the Board estimated for existing complaints in its 2017 request to OMB for an extension of its collection of complaints. *See* STB,

[61] For the purpose of RFA analysis for rail carriers subject to Board jurisdiction, the Board defines a ''small business'' as only including those rail carriers classified as Class III rail carriers under 49 CFR 1201.1–1. *See Small Entity Size Standards Under the Regulatory Flexibility Act,* EP 719 (STB served June 30, 2016) (with Board Member Begeman dissenting). Class III carriers have annual operating revenues of $20 million or less in 1991 dollars, or $40,384,263 or less when adjusted for inflation using 2019 data. Class II rail carriers have annual operating revenues of less than $250 million but in excess of $20 million in 1991 dollars, or $504,803,294 and $40,384,263, respectively, when adjusted for inflation using 2019 data. The Board calculates the revenue deflator factor annually and publishes the railroad revenue thresholds in decisions and on its website. 49 CFR 1201.1–1; *Indexing the Annual Operating Revenues of R.Rs.,* EP 748 (STB served June 10, 2020).

Supporting Statement for Modification & OMB Approval Under the Paperwork Reduction Act & 5 CFR pt. 1320, OMB Control No. 2140–0029 (Mar. 2017), *https://www.reginfo.gov/public/do/DownloadDocument?objectID=72159101.* In its supporting statement for that request, which OMB approved, the Board explained that its burden estimates were ''based on informal feedback previously provided by a small sampling (less than five) of respondents.'' (*Id.* at 2, 3.) The Board has been provided no other data upon which it could adjust its estimate.

This modification and extension request of an existing, approved collection will be submitted to OMB for review as required under the PRA, 44 U.S.C. 3507(d), and 5 CFR 1320.11. The request will address the comments discussed above as part of the PRA approval process.

Congressional Review Act

Pursuant to the Congressional Review Act, 5 U.S.C. 801–808, the Office of Information and Regulatory Affairs has designated this rule as non-major, as defined by 5 U.S.C. 804(2).

It is ordered:

1. The Board adopts the final rule as set forth in this decision. Notice of the adopted rule will be published in the **Federal Register**.

2. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.

3. This decision is effective September 5, 2020.

List of Subjects

49 CFR Part 1011

Administrative practice and procedure; Authority delegations (government agencies); Organization and functions (government agencies).

49 CFR Part 1111

Administrative practice and procedure; Investigations.

Decided: July 31, 2020.

By the Board, Board Members Begeman, Fuchs, and Oberman.

Jeffrey Herzig,

Clearance Clerk.

For the reasons set forth in the preamble, the Surface Transportation Board amends parts 1011 and 1111 of title 49, chapter X, of the Code of Federal Regulations as follows:

PART 1011—BOARD ORGANIZATION; DELEGATIONS OF AUTHORITY

■ 1. The authority citation for part 1011 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 49 U.S.C. 1301, 1321, 11123, 11124, 11144, 14122, and 15722.

■ 2. Amend § 1011.6 by adding paragraph (i) to read as follows:

§ 1011.6 Delegations of authority by the Chairman.

* * * * *

(i) In matters involving the streamlined market dominance approach, authority to hold a telephonic evidentiary hearing on market dominance issues is delegated to administrative law judges, as described in § 1111.12(d) of this chapter.

PART 1111—COMPLAINT AND INVESTIGATION PROCEDURES

■ 3. The authority citation for part 1111 is revised to read as follows:

Authority: 49 U.S.C. 10701, 10702, 10704, 10707, 11701, and 1321.

■ 4. Amend § 1111.9 by revising paragraph (a) to read as follows:

§ 1111.9 Procedural schedule in stand-alone cost cases.

(a) *Procedural schedule.* Absent a specific order by the Board, the following general procedural schedule will apply in stand-alone cost cases after the pre-complaint period initiated by the pre-filing notice:

(1) Day 0—Complaint filed, discovery period begins.

(2) Day 7 or before—Conference of the parties convened pursuant to § 1111.11(b).

(3) Day 20—Defendant's answer to complaint due.

(4) Day 150—Discovery completed.

(5) Day 210—Complainant files opening evidence on absence of intermodal and intramodal competition, variable cost, and stand-alone cost issues.

(6) Day 270—Defendant files reply evidence to complainant's opening evidence.

(7) Day 305—Complainant files rebuttal evidence to defendant's reply evidence. In cases using the streamlined market dominance approach, a telephonic evidentiary hearing before an administrative law judge, as described in § 1111.12(d) of this chapter, will be held at the discretion of the complainant in lieu of the submission of a written rebuttal on market dominance issues. The hearing will be held on or about the date that the complainant's rebuttal evidence on rate reasonableness is due.

(8) Day 335—Complainant and defendant file final briefs.

(9) Day 485 or before—The Board issues its decision.

* * * * *

■ 5. Amend § 1111.10 by revising paragraph (a) to read as follows:

§ 1111.10 Procedural schedule in cases using simplified standards.

(a) *Procedural schedule.* Absent a specific order by the Board, the following general procedural schedules will apply in cases using the simplified standards:

(1)(i) In cases relying upon the Simplified-SAC methodology:

(A) Day 0—Complaint filed (including complainant's disclosure).

(B) Day 10—Mediation begins.

(C) Day 20—Defendant's answer to complaint (including defendant's initial disclosure).

(D) Day 30—Mediation ends; discovery begins.

(E) Day 140—Defendant's second disclosure.

(F) Day 150—Discovery closes.

(G) Day 220—Opening evidence.

(H) Day 280—Reply evidence.

(I) Day 310—Rebuttal evidence. In cases using the streamlined market dominance approach, a telephonic evidentiary hearing before an administrative law judge, as described in § 1111.12(d) of this chapter, will be held at the discretion of the complainant in lieu of the submission of a written rebuttal on market dominance issues. The hearing will be held on or about the date that the complainant's rebuttal evidence on rate reasonableness is due.

(J) Day 320—Technical conference (market dominance and merits, except for cases using the streamlined market dominance approach, in which the technical conference will be limited to merits issues).

(K) Day 330—Final briefs.

(ii) In addition, the Board will appoint a liaison within 10 business days of the filing of the complaint.

(2)(i) In cases relying upon the Three-Benchmark methodology:

(A) Day 0—Complaint filed (including complainant's disclosure).

(B) Day 10—Mediation begins. (STB production of unmasked Waybill Sample.)

(C) Day 20—Defendant's answer to complaint (including defendant's initial disclosure).

(D) Day 30—Mediation ends; discovery begins.

(E) Day 60—Discovery closes.

(F) Day 90—Complainant's opening (initial tender of comparison group and opening evidence on market dominance). Defendant's opening (initial tender of comparison group).

(G) Day 95—Technical conference on comparison group.

(H) Day 120—Parties' final tenders on comparison group. Defendant's reply on market dominance.

(I) Day 150—Parties' replies to final tenders. Complainant's rebuttal on market dominance. In cases using the streamlined market dominance approach, a telephonic evidentiary hearing before an administrative law judge, as described in § 1111.12(d) of this chapter, will be held at the discretion of the complainant in lieu of the submission of a written rebuttal on market dominance issues. The hearing will be held on or about the date that the complainant's rebuttal evidence on rate reasonableness is due.

(ii) In addition, the Board will appoint a liaison within 10 business days of the filing of the complaint.

* * * * *

■ 6. Add § 1111.12 to read as follows:

§ 1111.12 Streamlined market dominance.

(a) A complainant may elect to pursue the streamlined market dominance approach to market dominance if the challenged movement satisfies the factors listed in paragraphs (a)(1) through (7) of this section. The Board will find a complainant has made a prima facie showing on market dominance when it can demonstrate the following with regard to the traffic subject to the challenged rate:

(1) The movement has an R/VC ratio of 180% or greater;

(2) The movement would exceed 500 highway miles between origin and destination;

(3) There is no intramodal competition from other railroads;

(4) There is no barge competition;

(5) There is no pipeline competition;

(6) The complainant has used truck for 10% or less of its volume (by tonnage) subject to the rate at issue over a five-year period; and

(7) The complainant has no practical build-out alternative due to physical, regulatory, financial, or other issues (or combination of issues).

(b) A complainant may rely on any competent evidence, including a verified statement from an appropriate official(s) with knowledge of the facts, in demonstrating the factors set out in paragraph (a) of this section. An appropriate official is any individual who has either direct or supervisory responsibility for, or otherwise has knowledge or understanding of, the complainant's transportation needs and options. The official(s) should provide his or her title and a short description of his or her duties in the verified statement. In demonstrating the revenue to variable cost ratio, a complainant must show its quantitative calculations.

(c) A defendant's reply evidence under the streamlined market dominance approach may address the factors in paragraph (a) of this section and any other issues relevant to market dominance. A complainant may elect to submit rebuttal evidence on market dominance issues. Reply and rebuttal filings under the streamlined market dominance approach are each limited to 50 pages, inclusive of exhibits and verified statements.

(d)(1) Pursuant to the authority under § 1011.6 of this chapter, an administrative law judge will hold a telephonic evidentiary hearing on the market dominance issues at the discretion of the complainant in lieu of the submission of a written rebuttal on market dominance issues.

(2) The hearing will be held on or about the date that the complainant's rebuttal evidence on rate reasonableness is due. The complainant shall inform the Board by letter submitted in the docket, no later than 10 days after defendant's reply is due, whether it elects an evidentiary hearing of lieu of the submission of a written rebuttal on market dominance issues.

(3) The Board will provide an unofficial copy of the hearing transcript no later than 5 days after the conclusion of the hearing. The Board will provide the official hearing transcript shortly thereafter. The hearing transcript will be part of the docket in the proceeding.

[FR Doc. 2020–17115 Filed 8–5–20; 8:45 am]

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Proposed Rules

Federal Register

Vol. 85, No. 152

Thursday, August 6, 2020

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0686; Product Identifier 2019–NM–035–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2018–23–51, which applies to all The Boeing Company Model 737–8 and 737–9 (737 MAX) airplanes. Since AD 2018–23–51 was issued, the agency has determined that final corrective action is necessary to address the unsafe condition. This proposed AD would require installing new flight control computer (FCC) software, revising the existing Airplane Flight Manual (AFM) to incorporate new and revised flightcrew procedures, installing new MAX display system (MDS) software, changing the horizontal stabilizer trim wire routing installations, completing an angle of attack sensor system test, and performing an operational readiness flight. This proposed AD would also apply to a narrower set of airplanes than the superseded AD, and allow operation (dispatch) of an airplane with certain inoperative systems only if certain provisions are incorporated in the operator's existing FAA-approved minimum equipment list (MEL). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by September 21, 2020.

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

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

For Boeing service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the Docket for this rulemaking, which may be found on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0686.

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–2020–0686; 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 NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ian Won, Manager, Seattle ACO Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3500; email: *9-FAA-SACO-AD-Inquiry@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to participate in this rulemaking by submitting written comments, data, or views about this proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one copy of the comments. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0686; Product Identifier 2019–NM–035–AD'' at the beginning of your comments.

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 post all comments received, without change, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments received by the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this NPRM because of those comments.

Confidential Business Information (CBI)

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 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 the person identified in the **FOR FURTHER INFORMATION CONTACT** section. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

On October 29, 2018, a Boeing Model 737–8 airplane operated by Lion Air (Lion Air Flight 610) was involved in an accident after takeoff from Soekarno-

Hatta International Airport in Jakarta, Indonesia, resulting in 189 fatalities. Investigation of the accident has been completed by the Indonesian authorities (Komite Nasional Keselamatan Transportasi (KNKT)) with assistance from the National Transportation Safety Board (NTSB) and the FAA of the United States, the manufacturer, and the operator. Reports [1] from the accident investigation indicate that the airplane's flight control system [2] generated repeated airplane nose-down horizontal stabilizer trim [3] commands contributing to the accident.

Following the Lion Air Flight 610 accident on October 29, 2018, data from the flight data recorder, which is contained in the Indonesian accident report (*http://knkt.dephub.go.id/knkt/ntsc_aviation/baru/2018%20-%20035%20-%20PK-LQP%20Final%20Report.pdf*), indicated that a single erroneously high angle of attack (AOA) sensor [4] input to the flight control system while the flaps are retracted can cause repeated airplane nose-down trim of the horizontal stabilizer and multiple flightdeck effects.

These effects include stall warning activation, airspeed disagree alert, and altitude disagree alert,[5] and may affect the flightcrew's ability to accomplish continued safe flight and landing.

On November 7, 2018, the FAA issued Emergency AD 2018–23–51 as an interim corrective action.[6] The FAA sent Emergency AD 2018–23–51 to all known U.S. owners and operators of Boeing Model 737 MAX airplanes to require revising certificate limitations and operating procedures of the AFM to provide the flightcrew with runaway horizontal stabilizer trim procedures to follow under certain conditions. The FAA sent Emergency AD 2018–23–51 to all affected civil aviation authorities (CAAs) at the same time. AD 2018–23–51, Amendment 39–19512 (83 FR 62697, December 6, 2018; corrected December 11, 2018 (83 FR 63561)), was published in the **Federal Register** as an amendment to 14 CFR 39.13.

On March 10, 2019, a Boeing Model 737–8 airplane operated by Ethiopian Airlines (Ethiopian Airlines Flight 302) was involved in an accident after takeoff from Addis Ababa Bole International Airport in Addis Ababa, Ethiopia, resulting in 157 fatalities. The accident is under investigation by the Ethiopian Accident Investigation Bureau (EAIB) with assistance from the NTSB and the FAA of the United States, the French Bureau of Enquiry and Analysis for Civil Aviation Safety (BEA), the European Union Aviation Safety Agency (EASA), the manufacturer, the operator, and the Ethiopian Civil Aviation Authority (ECAA).

The data from the flight data recorders, as summarized in reports [7] of the Ethiopian Airlines Flight 302 accident and the Lion Air Flight 610 accident, indicated that if a single erroneously high AOA sensor input is received by the flight control system, the maneuvering characteristics augmentation system (MCAS) [8] can command repeated airplane nose-down trim of the horizontal stabilizer. This unsafe condition, if not addressed, could cause the flightcrew to have difficulty controlling the airplane, and lead to excessive airplane nose-down attitude, significant altitude loss, and impact with terrain.

To address the unsafe condition, the FAA proposes to require four design changes: (1) Installing updated flight control software (with new control laws) for the FCC operational program software (OPS), (2) installing updated MDS display processing computer (DPC) software to generate an AOA disagree alert,[9] (3) revising certain AFM flightcrew operating procedures, and (4) changing the routing of horizontal stabilizer trim wires. The first design change is intended to prevent erroneous MCAS activation. The second design change alerts the pilots that the airplane's two AOA sensors are disagreeing by a certain amount indicating a potential AOA sensor failure. The third design change is intended to ensure that the flightcrew has the means to recognize and respond to erroneous stabilizer movement and the effects of a potential AOA sensor failure. The fourth design change is intended to restore compliance with the FAA's latest wire separation safety standards.

In addition to these four design changes, the FAA also proposes to

[1] Preliminary KNKT.18.10.35.04 Aircraft Accident Investigation Report, dated November 2018, and Final KNKT.18.10.35.04 Aircraft Accident Investigation Report, dated October 2019, can be found in the AD docket.

[2] The flight control system for 737 MAX airplanes includes two flight control computers, FCC A and FCC B, which process inputs from the pilots and aircraft sensors to move the airplane's control surfaces.

[3] An airplane's nose-up or nose-down attitude is known as its ''pitch attitude.'' On the 737 MAX, the airplane's pitch attitude is primarily controlled by a combination of two movable surfaces on the tail of the airplane: The horizontal stabilizer, which is controlled by electric and manual (pilot) trim inputs, and the elevator, which is controlled by moving the control columns. ''Pitch trim'' commands move the horizontal stabilizer. Pilots use pitch trim to adjust the position of the horizontal stabilizer to achieve the desired flight path and to manage the forces necessary to keep the airplane in stable flight.

[4] The angle of attack (or AOA) is the angle at which the airplane wing meets the oncoming air. On the current 737 MAX, AOA is measured by two independent AOA sensors, which are small vanes mounted on either side of the forward exterior of the fuselage. For the purposes of this NPRM, ''high'' AOA is a relatively large angle (associated with flight conditions outside of the normal flight envelope), and ''low'' AOA is a relatively small angle (associated with flight conditions within the normal flight envelope). Although wing lift increases with increased AOA, an excessively high airplane nose-up AOA can be hazardous, since eventually lift can be lost, causing the airplane to stall. A stall occurs when the airflow around the wing is sufficiently disrupted to cause the wing to no longer generate lift. To warn of an impending stall, the 737 MAX is equipped with a ''stick shaker,'' which vibrates the control column, providing tactile annunciation to the pilot.

[5] Stall warning indication is the activation of the stick shaker and other warnings. An airspeed disagree alert, or ''IAS (indicated airspeed) DISAGREE'' on the 737 MAX, is a visual alert on the airplane's primary flight displays (PFDs) that the airspeed displayed on the captain's and first officer's PFDs, as sensed by the pitot tubes on either side of the airplane, disagree by more than 5 knots for more than 5 seconds. An altitude disagree alert, or ''ALT (altitude) DISAGREE'' on the 737 MAX, is a visual alert on the PFDs that the altitude, as sensed by the static ports on either side of the airplane, disagree by more than 200 feet for more than 5 seconds.

[6] Flight data recorder (FDR) data from the Lion Air Flight 610 accident airplane indicated that on the flight just prior to the accident flight (Lion Air Flight 043), the airplane experienced the same single erroneously high AOA sensor failure condition upon takeoff that the Lion Air Flight 610 crew encountered. The flightcrew on Lion Air Flight 043 was able to maintain continued safe flight and land at their planned destination airport in Jakarta. The flightcrew on Lion Air Flight 043 had no prior awareness of this type of failure or how to respond to it. The FAA's review of these flights and associated risk assessments provided the basis for the revised pilot procedures contained in the interim action of the FAA's emergency AD; specifically, the rationale was that if pilots were provided awareness of the airplane and flightdeck effects of this specific failure scenario and were provided appropriate instructions via the emergency AD, this would enable appropriate pilot response to the erroneously high AOA failure scenario for the period of time needed to fully eliminate this unsafe condition with a software revision to the flight control computers.

[7] Ethiopian Aircraft Accident Investigation Preliminary Report AI–01/19, dated March 2019, and the Ethiopian Interim Investigation Report of accident MAX–8 ET–AVJ, ET–302, dated March 2020, can be found in the AD docket.

[8] MCAS is a function of the Speed Trim System (STS), which is part of the airplane's flight control system. The STS provides automatic trim inputs to the horizontal stabilizer during manual flight. The STS uses data from a variety of sources, such as pitot tubes and the AOA sensors, to calculate when to make commands. MCAS is activated only during manual flight, with flaps up, and when the AOA sensors detect that the airplane is flying with a high AOA, such as when climbing aggressively or performing excessively tight turns with high bank angles. MCAS makes pitch trim commands to the horizontal stabilizer during a high AOA event so that the 737 MAX handling qualities are compliant with FAA regulations (including 14 CFR 25.173).

[9] An AOA disagree alert, or ''AOA DISAGREE'' on the 737 MAX, is a visual alert on the airplane's PFDs that alerts the flightcrew of a disagreement between the angles of attack measured by each of the airplane's two AOA sensors.

require operators to conduct an AOA sensor system test and perform an operational readiness flight prior to returning each airplane to service. Finally, operators with an existing FAA-approved MEL would be required to incorporate more restrictive provisions to dispatch the airplane with certain inoperative equipment. The new master minimum equipment list (MMEL), approved by the FAA, was published on April 10, 2020, after undergoing a public notice and comment process.

Proposed Design Changes

The FAA proposes mandating the following changes to the 737 MAX type design, to address the various aspects of the unsafe condition.

To ensure that an erroneous signal from a failed single AOA sensor does not prevent continued safe flight and landing, and specifically that it does not generate erroneous MCAS activation, the FAA proposes to require installation of updated FCC software with revised flight control laws [10] associated with MCAS. These revised flight control laws would use inputs from both AOA sensors to activate MCAS. This is in contrast to the original MCAS design, which relied on data from only one sensor at a time, and allowed repeated MCAS activation as a result of input from a single AOA sensor.

The updated FCC software would also compare the inputs from the two sensors to detect a failed AOA sensor. If the difference between the AOA sensor inputs is above a calculated threshold,[11] the FCC would disable the speed trim system (STS), including its MCAS function, for the remainder of that flight, and provide a corresponding indication of such deactivation on the flight deck.

To ensure that MCAS will not command repeated movements of the horizontal stabilizer, the revised flight control laws would permit only one activation of MCAS per sensed high AOA event. A subsequent activation of MCAS would be possible only after the airplane returns to a low AOA state, below the threshold that would cause MCAS activation.

The updated FCC software would also limit [12] the magnitude of any MCAS command to move the horizontal stabilizer, such that the final horizontal stabilizer position (after the MCAS command) would preserve the flightcrew's ability to control the airplane pitch by using only the control column. The original design allowed MCAS commands to be made without consideration of the horizontal stabilizer position—before or after the MCAS command.

An undesired MCAS activation could prompt the flightcrew to perform a non-normal procedure. To ensure that after any foreseeable failure of the stabilizer system, safe flight is not dependent on the timeliness of the flightcrew performing a non-normal procedure, the FAA proposes multiple changes.

First, as previously discussed, the flight control laws would be changed to instead use inputs from two AOA sensors for MCAS activation, so that there would not be an undesired MCAS activation due to a single AOA sensor failure that could lead a flightcrew to perform a non-normal procedure.

Second, in the event that MCAS is activated as intended (*i.e.,* during a high AOA event), the updated flight control laws software would limit the number of MCAS activations to one per high AOA event, and limit the magnitude of any single activation so that the flightcrew could maintain pitch control without needing to perform a non-normal procedure.

The FAA also proposes requiring an additional software update that would alert the flightcrew to a disagreement between the two AOA sensors. This disagreement indicates certain AOA sensor failures or a significant calibration issue. The updated MDS software would implement an AOA DISAGREE alert on all 737 MAX airplanes. Some 737 MAX airplanes were delivered without this alert feature, by error. While the lack of an AOA DISAGREE alert is not an unsafe condition itself, the FAA is proposing to mandate this software update to restore compliance with 14 CFR 25.1301 and because the flightcrew procedures mandated by this AD now rely on this alert to guide flightcrew action. As a result of the changes proposed in this AD, differences between the two AOA sensors greater than a certain threshold [13] would cause an AOA DISAGREE alert on the primary flight displays (PFDs).

Also, as a result of the installation of this revised MDS software, operators would be required to remove ''INOP'' markers, if present, from the electronic flight instrument system (EFIS) panel of the airplane, because the markers would no longer be necessary, due to other changes in the updated MDS software that are unrelated to this unsafe condition. These markers, labeled ''INOP,'' indicate that one of the positions on the dial that selects display settings is inoperative.

To facilitate the flightcrew's ability to recognize and respond to undesired horizontal stabilizer movement and the effects of a potential AOA sensor failure, the FAA proposes to mandate revising and adding certain operating procedures (checklists) of the AFM [14] used by the flightcrew for the 737 MAX. All transport category airplanes have non-normal checklists to aid the pilots in responding to airplane failures.

The following is a general description of the changes that would be made to these checklists,[15] and the purpose of each change. The FAA will conduct an operational evaluation before finalizing these checklists. (See Flightcrew Training section in this preamble for further information.)

To reduce the workload on the flightcrew when they suspect that the airspeed indications are unreliable, the FAA proposes to revise the Airspeed Unreliable checklist of the AFM. This checklist would be revised to (1) add a step to allow the flightcrew to determine a reliable airspeed indication without the use of reference tables, (2) improve the procedure for go-arounds to allow for increased use of automation, (3) add a step to ensure that erroneous altitude information is not transmitted via the transponder to air traffic control (ATC), and (4) add erroneous AOA as a

[10] A flight control law generates commands to move flight control surfaces based on inputs from the flightcrew and sensors on the airplane. Flight control laws reside in software, and are developed to generate commands from the flight control computers that will achieve desired airplane performance.

[11] The calculated threshold would be a function of the magnitude of the disagreement and the rate of change of the AOA sensor position values.

[12] The magnitude of the command varies according to parameters such as the airplane's altitude and airspeed, and would be limited such that after the command is made, the pilot would be able to maintain level flight, climb, and descend, using control column inputs only.

[13] More than 10 degrees difference for more than 10 seconds.

[14] The AFM is an FAA-approved document that manufacturers are required to furnish to owners upon delivery of the airplane, and that provides necessary safety information. See 14 CFR 25.1581. This information includes procedures (emergency and non-normal) for foreseeable but unusual situations that necessitate flightcrew action. See 14 CFR 25.1585. These procedures provide the flightcrew with instructions, including checklists, on how to respond to these conditions. Some of these conditions require immediate action by the flightcrew, so some checklists identify certain tasks that the flightcrew is expected to accomplish from memory; these items are commonly known as memory steps or ''recall'' items. Other conditions have checklists that do not need to be memorized; these items are commonly known as ''reference'' items.

[15] All of the checklists that the FAA proposes to revise or add to the AFM are already part of Boeing's Quick Reference Handbook, or QRH, for the 737 MAX (except for the IAS Disagree checklist, which is new to both the AFM and the QRH). The QRH is a nonregulatory tool used by flightcrews that includes information for non-normal and emergency conditions, including AFM procedures.

potential cause for unreliable airspeed conditions.

The Runaway Stabilizer checklist of the AFM is used when there is undesired movement of the airplane's horizontal stabilizer. The FAA proposes revisions to the criteria for this checklist's use, to include when uncommanded horizontal stabilizer movement occurs continuously or in a manner not appropriate for current flight conditions. The revised checklist would include an explicit recall item that instructs the flightcrew to use their thumb-actuated trim switch to reduce forces on the control column. The checklist would also include a recall item to use the control column and thrust levers to control the airplane's pitch attitude and airspeed. Finally, the checklist would be revised to add a reference item to manually trim the horizontal stabilizer for pitch control, and note that a two-pilot effort may be used to correct an out-of-trim condition.

The Stabilizer Trim Inoperative checklist of the AFM would be revised to better align with the other non-normal checklists, and modified to provide guidance for manually trimming the stabilizer for pitch control, noting that a two-pilot effort may be used and will not cause system damage.

As previously discussed, one of the design changes proposed by this NPRM is a flight control law that would render the STS and MCAS functions inoperative if the airplane's AOA sensors disagree. To assist the flightcrew in properly responding to such an occurrence, a non-normal checklist, called the Speed Trim Fail checklist, would be added to the AFM. This checklist would be used when the STS and MCAS functions are inoperative, and inform the flightcrew to continue normal operation. It would also note that the STS will not provide horizontal stabilizer trim inputs when the airplane deviates from its trimmed airspeed.

The FAA proposes adding the Stabilizer Out of Trim checklist to the AFM. The Stabilizer Out of Trim checklist would be used when the autopilot does not set the horizontal stabilizer trim correctly. Under the current design, the STAB OUT OF TRIM light illuminates in flight to inform the flightcrew that the airplane's autopilot is not setting the horizontal stabilizer trim correctly. Under the new design, as part of the aforementioned FCC software update, this light will now also illuminate on the ground, to inform the flightcrew of a partial failure of a flight control computer. If the airplane is on the ground, the checklist will instruct the flightcrew to not take off. The checklist provides additional information for the flightcrew to use if the airplane is in flight.

The FAA proposes to add an AOA Disagree checklist as a procedure to the AFM, because the FAA proposes that the AOA DISAGREE alert be available on the PFDs for all 737 MAX airplanes. Therefore, this proposed checklist would be used when there is an indication, such as an AOA DISAGREE alert, that the airplane's left and right AOA vanes disagree. The checklist would inform the flightcrew to accomplish the Airspeed Unreliable checklist.

The FAA proposes to add the ALT Disagree checklist as a procedure to the AFM. This checklist is used when the captain's and first officer's altitude indicators disagree, generating an ALT DISAGREE alert on the airplane's PFDs. This proposed checklist would provide procedures to the flightcrew that would initially be driven by whether there is also an IAS DISAGREE alert shown on the airplane's PFDs. The checklist would also provide additional steps for the flightcrew to subsequently complete for the descent, approach, and landing phases of flight.

The final checklist that the FAA proposes to add to the AFM is a new IAS Disagree checklist. This checklist is used when captain's and first officer's airspeed indicators—their ''indicated airspeed'' or ''IAS''—disagree. The checklist directs the flightcrew to accomplish the Airspeed Unreliable checklist.

Since this NPRM proposes to supersede AD 2018–23–51, the procedural information required by that AD would be outdated when the final rule is effective and therefore would be removed.

As part of the FAA's review of these design changes, the agency reviewed the entirety of the 737 MAX horizontal stabilizer control system. This review revealed that the physical separation of the horizontal stabilizer trim arm wiring and the horizontal stabilizer trim control wiring does not meet the criteria specified in 14 CFR 25.1707. This design standard was promulgated in 2007 and therefore is part of the certification basis of the 737 MAX but not of previous Boeing Model 737 airplanes. Certain wiring installations must have enough physical separation so that a wiring failure cannot create a hazard. Since design changes must comply with FAA regulations, the FAA proposes to require changes to the wiring installation to meet the required physical separation between the horizontal stabilizer trim arm wiring and the horizontal stabilizer trim control wiring. The FAA proposes this action to bring the airplanes into regulatory compliance.

Proposed Maintenance-Related Actions

To ensure that each airplane's two AOA sensors are functioning properly upon return to service, the FAA proposes to mandate that operators perform an AOA sensor system test on each airplane prior to its return to service. This test uses a fixture to position the AOA vane and verify that the reading provided by each AOA sensor is accurate.

The FAA allows operators to utilize an MEL for time-limited operation with certain equipment inoperative, after which the system must be fully restored. (See 14 CFR 91.213, 121.628, 125.201, and 129.14.) This proposed AD would continue to allow use of an existing FAA-approved MEL associated with the flight control system modified by the actions of this AD, provided that the more restrictive provisions of figure 10 to paragraph (i) of this proposed AD are adopted into the operator's existing FAA-approved MEL.

Given the unprecedented length of time that the FAA has limited the operation of these airplanes, and the importance of the flight control system to safety, the FAA proposes to mandate an operational readiness flight after the design changes proposed by this AD have been done, but prior to each airplane being introduced into service.

Emergency Order of Prohibition

On March 13, 2019, the FAA issued an Emergency Order of Prohibition, which prohibits the operation of Boeing Model 737–8 and 737–9 airplanes by U.S.-certificated operators or in U.S. territory.

The FAA plans to amend the Emergency Order of Prohibition in conjunction with adopting the final rule. The amended Emergency Order of Prohibition will address the actions that the Administrator deems appropriate to return the affected airplanes to service.

Related Service Information Under 1 CFR Part 51

The FAA reviewed the following service information.

- Boeing Special Attention Service Bulletin 737–31–1860, dated June 12, 2020, describes procedures for installation of MDS software, a software installation verification and corrective actions, and removal of certain INOP markers on the EFIS control panels.
- Boeing Special Attention Service Bulletin 737–27–1318, Revision 1, dated June 24, 2020, describes procedures for changing of the horizontal stabilizer trim wire routing installations.

• Boeing Special Attention Service Bulletin 737–00–1028, dated July 20, 2020, describes procedures for an AOA sensor system test and an operational readiness flight.

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

FAA's Determination

The FAA is proposing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require the following actions:

• Installing new FCC OPS software and doing a software installation verification.

• Revising the existing AFM to incorporate new and revised information and procedures, and to remove the information from the applicable sections that was required by AD 2018–23–51, because that information would be no longer applicable based on the design changes specified in this proposed AD.

• Requiring, for operators who wish to allow dispatch of an airplane with certain inoperative systems, incorporating certain provisions into the operator's existing FAA-approved MEL.

This proposed AD would also require the following actions. For information on those procedures, see this service information at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0686.

• Changing the horizontal stabilizer trim wire routing installation, by accomplishing the actions identified as ''RC'' (required for compliance) in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–27–1318, Revision 1, dated June 24, 2020.

• Installing revised MDS software, doing a software installation verification, and removing INOP markers if applicable, by accomplishing the applicable actions identified as ''RC'' in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–31–1860, dated June 12, 2020.

• Performing an AOA sensor system test, by accomplishing the applicable actions identified as ''RC'' in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–00–1028, dated July 20, 2020.

• Performing an operational readiness flight, by accomplishing the applicable actions identified as ''RC'' in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–00–1028, dated July 20, 2020.

Explanation of Change to the Applicability

AD 2018–23–51 applies to all 737 MAX airplanes. This proposed AD would apply only to the 737 MAX airplanes identified in Boeing Special Attention Service Bulletin 737–31–1860, dated June 12, 2020, which identifies line numbers for airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before the effective date of the original Emergency Order of Prohibition. Airplanes that have not received an original airworthiness certificate or original export certificate of airworthiness on or before the date of the original Emergency Order of Prohibition will have been modified to incorporate the changes required by this AD prior to receiving an original, or original export, airworthiness certificate.

Flightcrew Training

The FAA, through an operational evaluation, will assess the impact of the proposed aircraft design changes on pilot training. The FAA intends to conduct this evaluation jointly with three international civil aviation authorities: Agência Nacional de Aviação Civil (ANAC) Brazil, Transport Canada Civil Aviation (TCCA), and the EASA. The FAA will issue a draft Boeing 737 Flight Standardization Board Report documenting the results of the operational evaluation on pilot training. The FAA will post the draft Boeing 737 Flight Standardization Board Report at *https://www.faa.gov/aircraft/draft_docs/fsb/* for public comment. You may subscribe to this page to receive notification when the FAA posts the draft report.

Additionally, during the operational evaluation, the FAA will evaluate the operating procedures (checklists) proposed in this AD. If the FAA determines that the operational evaluation results necessitate additional changes to the checklists proposed in this AD, the FAA will post these changes as an addendum to the draft Boeing 737 Flight Standardization Board Report for public comment. If an addendum is posted, the FAA will announce the availability of it in the **Federal Register**. The FAA will consider the report and the comments submitted in finalizing the AD.

Explanation of Certain Provisions for Alternative Methods of Compliance (AMOCs)

Because some operators may use a procedural method for translating AFM requirements that is different from that published by Boeing, the FAA will consider approving AMOCs, as appropriate, to address those differences. For procedural aspects (including how specific AFM wording is translated into operationally approved documents such as a Flight Crew Operations Manual (FCOM) or related Quick Reference Handbook (QRH)), the FAA encourages operators, in coordination with their principal inspectors, to contact the appropriate Aircraft Evaluation Group (AEG) office for additional guidance.

In addition, Boeing Special Attention Service Bulletin 737–27–1318, Revision 1, dated June 24, 2020, specifies reporting and coordinating any deviations from the Accomplishment Instructions with Boeing. Boeing will coordinate deviations from ''RC'' actions with the FAA. Documenting approval of these deviations will facilitate the approval of AMOCs, if needed.

Costs of Compliance

The FAA estimates that this proposed AD affects 73 airplanes of U.S. registry. The agency estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
FCC OPS installation and verification	1 work-hour × $85 per hour = $85	$0	$85	$6,205.
AFM revisions	1 work-hour × $85 per hour = $85	$0	$85	$6,205.
MDS installation and verification, INOP marker removal.	1 work-hour × $85 per hour = $85	$0	$85	$6,205.

ESTIMATED COSTS—Continued

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Stabilizer wiring change	Up to 79 work-hours × $85 per hour = Up to $6,715.	Up to $3,790	Up to $10,505	Up to $766,865.
AOA sensor system test	40 work-hours × $85 per hour = $3,400.	$0	$3,400	$248,200.

The FAA has received no definitive data that would enable the agency to provide cost estimates for the operational readiness flight specified in this proposed AD.

Operators that have a MEL and choose to dispatch an airplane with an inoperative flight control system affected by this AD would be required to incorporate certain provisions into the operator's existing FAA-approved MEL. The FAA has determined that revising the operator's existing FAA-approved MEL takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate MEL changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the FAA estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

According to the manufacturer, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2018–23–51, Amendment 39–19512 (83 FR 62697, December 6, 2018; corrected December 11, 2018 (83 FR 63561)), and adding the following new AD:

The Boeing Company: Docket No. FAA–2020–0686; Product Identifier 2019–NM–035–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by September 21, 2020.

(b) Affected ADs

This AD replaces AD 2018–23–51, Amendment 39–19512 (83 FR 62697, December 6, 2018; corrected December 11, 2018 (83 FR 63561)) (''AD 2018–23–51'').

(c) Applicability

This AD applies to The Boeing Company Model 737–8 and 737–9 airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 737–31–1860, dated June 12, 2020.

(d) Subject

Air Transport Association (ATA) of America Code 22, Auto flight; 27, Flight controls; and 31, Indicating/recording systems.

(e) Unsafe Condition

This AD was prompted by the potential for a single erroneously high angle of attack (AOA) sensor input received by the flight control system to result in repeated airplane nose-down trim of the horizontal stabilizer, which, in combination with multiple flightdeck effects, could affect the flightcrew's ability to accomplish continued safe flight and landing.

(f) Compliance

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

(g) Installation/Verification of Flight Control Computer (FCC) Operational Program Software (OPS)

Before further flight, install FCC OPS software version P12.1.2, part number (P/N) 2274–COL–AC2–26, or later-approved software versions, on FCC A and FCC B, and do a software installation verification. During the installation verification, if the approved software part number is not shown as being installed on FCC A and FCC B, before further flight, do corrective actions until the approved software part number is installed on FCC A and FCC B. Later-approved software versions are only those Boeing software versions that are approved as a replacement for the applicable software, and are approved as part of the type design by the FAA after the effective date of this AD.

Note 1 to paragraph (g): Guidance for doing the installation and installation verification of the FCC OPS software can be found in Boeing 737–7/8/8200/9/10 Aircraft Maintenance Manual (AMM), Section 22–11–33.

(h) Airplane Flight Manual (AFM) Revisions

Before further flight, revise the existing AFM to include the changes specified in paragraphs (h)(1) through (10) of this AD. Revising the existing AFM to include the changes specified in paragraphs (h)(2) through (10) of this AD may be done by

inserting a copy of figures 1 through 9 to paragraphs (h)(2) through (10) of this AD into the existing AFM.

(1) In the Certificate Limitations and Operating Procedures chapters, remove the information identified as ''Required by AD 2018–23–51.''

(2) In the Operating Procedures chapter, revise the General paragraph to include the information in figure 1 to paragraph (h)(2) of this AD.

Figure 1 to paragraph (h)(2) – *AFM revision: General paragraph*

Definitions	**(Required by AD 2020-**-**)**
Recall items are minimum immediate actions items.	
Reference items are accomplished after Recall items have been accomplished.	

(3) In the Operating Procedures chapter, replace the existing Airspeed Unreliable paragraph with the information in figure 2 to paragraph (h)(3) of this AD.

Figure 2 to paragraph (h)(3) – AFM revision: Airspeed Unreliable

Airspeed Unreliable (E) (Required by AD 2020--**)**

Airspeed or Mach indications are suspected to be unreliable:

Recall:

If autopilot is engaged, disengage. If autothrottle is engaged, disengage. Set both F/D switches to off. Set the following gear up pitch attitude and thrust:

Flaps extended: 10° and 80% N1

Flaps up: 4° and 75% N1

Reference:

PROBE HEAT switches check on.

The following indications are reliable: attitude, N1, ground speed, and radio altitude.

Notes:

1. Stick shaker, overspeed warning and airspeed low alerts may sound erroneously or simultaneously.

2. The flight path vector and pitch limit indicator may be unreliable on the PFD and HUD (as installed).

3. If the AOA indicator option is installed, the stick shaker indicator may be unreliable. AOA digital readout, analog needle, and approach reference band may be unreliable if the airspeed unreliable condition is caused by erroneous AOA.

Attempt to determine a reliable airspeed indication.

If a reliable airspeed indication can be determined:

Use the reliable airspeed indication for the remainder of the flight. If only the standby airspeed indication is reliable do not use autopilot, autothrottle, or flight directors. If the captain's or first officer's airspeed indication is reliable, turn on the flight director switch on the reliable side. If needed, engage autopilot on the reliable side. Do not use autothrottle.

Note: Autopilot may not engage or may disengage automatically.

If a reliable airspeed indication cannot initially be determined:

Using performance tables from an approved source, set the pitch attitude and thrust setting for the current airplane configuration and phase of flight. When in trim and stabilized, compare the captain, first officer, and standby airspeed indicators with the airspeed shown in the table. An airspeed indication that differs by more than 20 knots or 0.03 Mach from the airspeed shown in the table should be considered unreliable. If only the standby airspeed indication is reliable, do not use autopilot, autothrottle, or flight directors. If the captain's or first officer's airspeed indication is reliable, turn on the flight director switch on the reliable side, and autopilot if needed. Do not use autothrottle.

Note: Autopilot may not engage or may disengage automatically.

If a reliable airspeed indication cannot be determined using performance tables from an approved source:

Using the performance tables from an approved source, set pitch attitude and thrust setting for the airplane configuration and phase of flight as needed. Reference an approved source for landing distances.

Notes:

1. Maintain visual conditions if possible.

2. Establish landing configuration early.

3. Radio altitude reference is available below 2500 feet.

4. Use electronic and visual glideslope indicators, where available, for approach and landing.

Attempt to determine a reliable altitude indication.

Use the most reliable altitude indication for the remainder of the flight. If the captain's or first officer's altitude indication is reliable:

The airplane may not meet RVSM requirements. Set transponder to reliable side and select traffic alerts only mode.

If captain's or first officer's altitude indications are both unreliable:

Turn off transponder altitude reporting.

Note: Airplane does not meet RVSM requirements.

In addition to the normal descent, approach and landing checklists, complete the following deferred items:

For approach, only set the BARO minimums on the reliable PFD. Remove the BARO minimums from the unreliable PFD.

Note: If BARO minimums are set only on the First Officer's PFD, DH/MDA aural callouts are not provided. In the event of a go-around, do the normal go-around procedure except refer to the Flight with Unreliable Airspeed go-around table to determine the go-around pitch setting.

In the event of a go-around if either the Captain's or First Officer's airspeed indication is reliable, when TO/GA is pushed, the flight director pitch bar may be removed. Selection of an AFDS pitch mode change, such as LVL CHG, restores the flight director pitch bar.

In the event of a go-around and the standby airspeed indication is the only reliable airspeed, do not use TO/GA.

(4) In the Operating Procedures chapter, replace the existing Runaway Stabilizer paragraph with the information in figure 3 to paragraph (h)(4) of this AD.

Figure 3 to paragraph (h)(4) – *AFM revision: Runaway Stabilizer*

Runaway Stabilizer (E) **(Required by AD 2020-**-**)**

If uncommanded stabilizer movement occurs continuously or in a manner not appropriate for flight conditions:

Recall:

Firmly hold control column. Disengage autopilot if engaged. Disengage autothrottle if engaged. Use the control column and thrust levers to control airplane pitch attitude and airspeed. Use main electric stabilizer trim to reduce control column forces.

If the runaway stops after autopilot is disengaged, do not re-engage autopilot or autothrottle; end of procedure.

If the runaway continues after autopilot is disengaged, place both STAB TRIM cutout switches to CUTOUT.

If the runaway continues, grasp and hold stabilizer trim wheel.

Reference:

Trim the stabilizer manually.

Notes:

1. A two-pilot effort may be used to correct an out of trim condition.

2. Reducing airspeed reduces airloads on the stabilizer which can reduce the effort needed to manually trim. Anticipate trim requirements. Do not re-engage autopilot or autothrottle.

In addition to the normal descent, approach and landing checklists, complete the following deferred item:

Establish landing configuration and in-trim condition early on final approach.

(5) In the Operating Procedures chapter, replace the existing Stabilizer Trim Inoperative paragraph with the information in figure 4 to paragraph (h)(5) of this AD.

Figure 4 to paragraph (h)(5) – *AFM revision: Stabilizer Trim Inoperative*

Stabilizer Trim Inoperative **(Required by AD 2020-**-**)**

Loss of electric trim through the main electric stabilizer trim switches, or when directed by the Stabilizer Out of Trim procedure.

Place both STAB TRIM cutout switches to CUTOUT. The autopilot is not available. Trim stabilizer manually. A two-pilot effort may be used and will not cause system damage.

Notes:

1. Reducing airspeed reduces airloads on the stabilizer which can reduce the effort needed to manually trim.

2. If the failure could be due to ice accumulation, descend to a warmer temperature and attempt again to trim manually.

If the stabilizer can be trimmed manually, anticipate trim requirements. If the stabilizer cannot be trimmed manually, expect higher than normal elevator forces during approach and landing. The thrust reduction at flare will cause a nose down pitch.

Plan a flaps 15 landing. Set Vref 15+10 knots.

Note: The maximum wind additive should not exceed 5 knots. Check the non-normal landing distance tables in an approved source.

In addition to the normal descent, approach and landing checklists, complete the following deferred items:

Review the normal go-around procedure. During a go-around, advance thrust to go-around smoothly and slowly to avoid excessive pitch-up.

Establish landing configuration early on final approach.

(6) In the Operating Procedures chapter, add the information in figure 5 to paragraph (h)(6) of this AD.

Figure 5 to paragraph (h)(6) – *AFM revision: Speed Trim Fail*

Speed Trim Fail **(Required by AD 2020-**-**)**

The Speed Trim function and MCAS function are inoperative.

Continue normal operation.

Note: The Speed Trim System will not provide stabilizer trim inputs when deviating from a trimmed airspeed.

(7) In the Operating Procedures chapter, add the information in figure 6 to paragraph (h)(7) of this AD.

Figure 6 to paragraph (h)(7) – *AFM revision: Stabilizer Out of Trim*

Stabilizer Out of Trim	**(Required by AD 2020-**-**)**
The STAB OUT OF TRIM light illuminates for the following conditions: On the ground: A partial failure of a Flight Control Computer. In-flight: the autopilot does not set the stabilizer trim correctly. If on ground, do not takeoff. End of procedure. In flight, during large changes in trim requirements, the STAB OUT OF TRIM light may illuminate momentarily. If the stabilizer is trimming, continue normal operation; end of procedure. In flight, if the stabilizer is not trimming, hold control column firmly. Disengage autopilot. Disengage autothrottle if engaged. Use main electric stabilizer trim as needed. If the stabilizer responds to electric trim inputs, do not re-engage the autopilot or autothrottle; end of procedure. If the stabilizer does not respond to electric trim inputs, accomplish the Stabilizer Trim Inoperative procedure.	

(8) In the Operating Procedures chapter, add the information in figure 7 to paragraph (h)(8) of this AD.

Figure 7 to paragraph (h)(8) – *AFM revision: AOA Disagree*

AOA Disagree	**(Required by AD 2020-**-**)**
When AOA DISAGREE appears on the PFD, this indicates the left and right angle of attack vanes disagree. Accomplish the Airspeed Unreliable procedure.	

(9) In the Operating Procedures chapter, add the information in figure 8 to paragraph (h)(9) of this AD.

Figure 8 to paragraph (h)(9) – *AFM revision: ALT Disagree*

ALT Disagree **(Required by AD 2020-**-**)**

The ALT DISAGREE alert is displayed on the captain's and first officer's altitude tape on the PFD when the indications disagree.

If the IAS DISAGREE alert is also shown on the speed tape of the PFD, accomplish the Airspeed Unreliable procedure.

If the IAS DISAGREE is not shown, check all altimeters are set to correct barometric setting.

If the ALT DISAGREE alert remains, do not use the flight path vector, and if a reliable altitude is determined, use the transponder for the reliable side.

If a reliable altitude is not determined, set the transponder to not transmit altitude.

In addition to the normal descent, approach and landing checklists, complete the following deferred items:

For approach, only set the BARO minimums on the reliable PFD. Remove the BARO minimums from the unreliable PFD.

Note: If BARO minimums are set only on the First Officer's PFD, DH/MDA aural callouts are not provided.

Establish landing configuration early.

Radio altitude reference is available below 2,500 ft.

Use electronic and visual glideslope indicators where available for approach and landing.

(10) In the Operating Procedures chapter, add the information in figure 9 to paragraph (h)(10) of this AD.

Figure 9 to paragraph (h)(10) – *AFM revision: IAS Disagree*

IAS Disagree **(Required by AD 2020-**-**)**

When IAS DISAGREE appears on the PFD, this indicates the captain's and first officer's airspeed indicators disagree. Accomplish the Airspeed Unreliable procedure.

(i) Minimum Equipment List (MEL) Provisions for Inoperative Flight Control System Functions

In the event that the airplane functions associated with the flight control system as modified by this AD are inoperative, an airplane may be operated (dispatched) only if the provisions specified in figure 10 to paragraph (i) of this AD are incorporated into the operator's existing FAA-approved MEL.

Figure 10 to paragraph (i): *MEL provisions*

(1) Dispatch is not permitted with both autopilot systems inoperative.

(2) The autopilot disengage aural warning system must be operative for dispatch.

(3) The STAB OUT OF TRIM light must be operative for dispatch.

(4) The speed trim function must be operative for dispatch.

NOTE: This requires both FCCs to be operative for dispatch.

(5) The SPEED TRIM FAIL light must be operative for dispatch.

(6) Dispatch is not permitted with both A/P ENGAGE Command (CMD) Switches (A and B) inoperative.

(7) Dispatch is not permitted with both A/P ENGAGE Command (CMD) switch lights inoperative.

(8) Dispatch is not permitted with both autopilot (A/P) disengage lights inoperative. Dispatch may be made with one A/P disengage light inoperative provided the autopilot disengage aural warning system operates normally.

(9) Dispatch is not permitted with both Control Wheel Autopilot Disengage Switches inoperative. Dispatch may be made with one control wheel autopilot disengage switch inoperative provided the following conditions are met.

a) Mode Control Panel autopilot DISENGAGE bar operates normally,

b) Autopilot is not used below 1,500 feet AGL, and

c) Approach minimums do not require use of autopilot.

(10) Both control wheel trim switch systems must be operative for dispatch.

Note 2 to paragraph (i): The MEL provisions specified in figure 10 to paragraph (i) of this AD correspond to Master Minimum Equipment List (MMEL) items 22–10–01B, 22–10–02, 22–10–03, 22–11–01, 22–11–02, 22–11–05–02B, 22–11–06–2B, 22–11–08–01A, 22–11–08–01B, 22–11–10A, 22–11–10B, and 27–41–01, in the existing FAA-approved Boeing 737 MAX B–737–8/-9 MMEL, Revision 2, dated April 10, 2020, which can be found on the Flight Standards Information Management System (FSIMS) website, *https://fsims.faa.gov/PICResults.aspx?mode=Publication&doctype=MMELByModel.*

(j) Installation/Verification of MAX Display System (MDS) Software, Removal of INOP Markers

Before further flight, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–31–1860, dated June 12, 2020.

(k) Horizontal Stabilizer Trim Wire Bundle Routing Change

Before further flight, do all applicable actions identified as ''RC'' in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–27–1318, Revision 1, dated June 24, 2020.

(l) AOA Sensor System Test

Before further flight, do all applicable actions identified as ''RC'' for the ''Angle of Attack (AOA) Sensor System Test'' specified in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–00–1028, dated July 20, 2020.

(m) Operational Readiness Flight

(1) Before further flight and after accomplishment of all applicable required actions in paragraphs (g) through (l) of this AD, do all applicable actions identified as ''RC'' for the ''Operational Readiness Flight'' specified in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–00–1028, dated July 20, 2020. A special flight permit is not required to accomplish the operational readiness flight required by this paragraph.

(2) After the operational readiness flight and before further flight, any mechanical irregularities that occurred during the operational readiness flight must be resolved following the operator's FAA-approved maintenance or inspection program, as applicable.

(n) Special Flight Permits

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the actions of this AD can be performed.

(o) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (k) of this AD, if those actions were performed before the effective date of this AD using Boeing Special Attention Service Bulletin 737–27–1318, dated June 10, 2020.

(p) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards 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 (q)(1) of

this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) AMOCs approved previously for AD 2018–23–51 are not approved as AMOCs for this AD.

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (p)(4)(i) and (ii) of this AD apply.

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

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

(q) Related Information

(1) For more information about this AD, contact Ian Won, Manager, Seattle ACO Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3500; email: *9-FAA-SACO-AD-Inquiry@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on August 3, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–17221 Filed 8–5–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0746; Product Identifier 2019–CE–012–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Pilatus Aircraft Ltd. Model PC–12/47E airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as seizing of a main landing gear (MLG) spring pack assembly. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by September 21, 2020.

ADDRESSES: You may send comments by any of the following methods:

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

For service information identified in this proposed AD, contact Pilatus Aircraft Ltd., Customer Technical Support (MCC), P.O. Box 992, CH–6371 Stans, Switzerland; telephone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: *Techsupport@pilatus-aircraft.com;* internet: *https://www.pilatus-aircraft.com/en.* You may review this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0746; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0746; Product Identifier 2019–CE–012–AD'' at the beginning of your comments. The FAA will consider all comments received by the closing date and may amend this proposed AD because of those comments.

Except for Confidential Business Information as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact it receives about this proposed AD.

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 Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2019–0032, dated February 15, 2019 (referred to after this as ''the MCAI''), to correct an unsafe condition for Pilatus Aircraft Ltd. Model PC–12/47E airplanes. The MCAI states:

> An occurrence was reported of an unlocked main landing gear (MLG) during landing of a PC–12/47E, equipped with electro-mechanical landing gear. Subsequent investigation identified that the aeroplane was equipped with an affected part [spring pack assemblies having part number (P/N) 532.34.12.101], which had completely seized. Serviceable parts [spring pack assemblies having P/N 532.34.12.120] have a special surface treatment on the inner and outer tube, which would have prevented the seizure.
>
> This condition, if not corrected, could lead to failure of an MLG spring pack assembly, possibly resulting in inability to safely extend the MLG and consequent loss of control of the aeroplane after landing.
>
> To address this potential unsafe condition, Pilatus issued the [service bulletin] SB to provide inspection and modification instructions.
>
> For the reason described above, this [EASA] AD requires replacement of affected parts with serviceable parts, and prohibits (re)installation of affected parts.

Forty-two airplanes were built that may have this version of the spring pack assembly installed. An improved spring pack assembly with a hard chrome plated inner tube was introduced in 2014. You may examine the MCAI on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0746.

Related Service Information Under 1 CFR Part 51

Pilatus Aircraft Ltd. has issued PC–12 Service Bulletin No. 32–027, dated January 7, 2019. The service information contains procedures for inspecting the MLG spring pack assembly to determine the part number, removing and discarding any affected spring pack assemblies, and installing the improved design spring pack assemblies. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

The FAA estimates that this proposed AD would affect 29 products of U.S. registry. The FAA also estimates that it would take about 3 work-hours per product to comply with the replacement requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $5,000 per product.

Based on these figures, the FAA estimates the cost of this proposed AD on U.S. operators to be $152,395, or $5,255 per product.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pilatus Aircraft Ltd.: Docket No. FAA–2020–0746; Product Identifier 2019–CE–012–AD.

(a) Comments Due Date

The FAA must receive comments by September 21, 2020.

(b) Affected ADs

None.

(c) Applicability

This airworthiness directive (AD) applies to Pilatus Aircraft Ltd. Model PC–12/47E airplanes, serial numbers 1300 and 1451 thru 1944 (except serial number 1720), certificated in any category, with a main landing gear (MLG) spring pack assembly part number (P/N) 532.34.12.101 installed.

(d) Subject

Air Transport Association of America (ATA) Code 32: Landing Gear.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as seizing of an MLG spring pack assembly. The FAA is issuing this AD to prevent failure of the MLG spring pack assembly, which could result in the inability to extend the MLG with consequent loss of control of the airplane after landing.

(f) Actions and Compliance

(1) Within 2 months after the effective date of this AD, remove from service MLG spring pack assembly P/N 532.34.12.101 and install MLG spring pack assembly P/N 532.34.12.120 by following the Accomplishment Instructions-Part A-Aircraft, section 3.B., in Pilatus PC–12 Service Bulletin No. 32–027, dated January 7, 2019.

(2) As of the effective date of this AD, do not install an MLG spring pack assembly P/N 532.34.12.101 on any airplane.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector (PI), or lacking a PI, your local Flight Standards District Office.

(h) Related Information

Refer to MCAI European Aviation Safety Agency AD No. 2019–0032, dated February 15, 2019, for related information. You may examine the MCAI on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0746. For service information related to this AD, contact Pilatus Aircraft Ltd., Customer Technical Support (MCC), P.O. Box 992, CH–6371 Stans, Switzerland; phone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: *Techsupport@pilatus-aircraft.com;* internet: *https://www.pilatus-aircraft.com/en.* You may review this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued on July 30, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–17044 Filed 8–5–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0685; Project Identifier MCAI–2020–00396–R]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Helicopters Model EC130B4 helicopters. This proposed AD was prompted by reports of inflight detachment of the left-hand (LH) side cabin sliding doors and cases of impact damage on the main rotor blades, which were caused by degradation of the sliding door locking mechanism. This proposed AD would require repetitive checks (measurements) of the load that operates the sliding door opening mechanism, repetitive inspections of the markings of the attachment screws for proper alignment, modifying the attachment system of the sliding door, and corrective actions if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by September 21, 2020.

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

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

For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this 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. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0685.

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–2020–0685; 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 NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kristi Bradley, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5485; email *Kristin.Bradley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0685; Project Identifier MCAI–2020–00396–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

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, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5485; 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

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0069, dated March 24, 2020 (''EASA AD 2020–0069'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Helicopters Model EC130B4 helicopters.

This proposed AD was prompted by reports of inflight detachment of the LH side cabin sliding doors and cases of impact damage on the main rotor blades, which were caused by degradation of the sliding door locking mechanism. The FAA is proposing this AD to address degradation of the locking mechanism, which could lead to further events of inflight detachment of a LH side cabin sliding door, and possibly result in damage to the helicopter and injury to persons on the ground. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0069 describes procedures for repetitive checks (measurements) of the load that operates the sliding door opening mechanism, repetitive inspections of the markings of the attachment screws of the rear LH upper catch for proper alignment, modifying the attachment system of the sliding door, and corrective actions if necessary. Corrective actions include adjusting the rear LH upper catch to increase the load required to operate the sliding door opening mechanism, inspecting the rear LH upper catch to determine if any anchor nut is not locked, and replacing the anchor nuts of the rear LH upper catch. EASA AD 2020–0069 also specifies that doing the modification of the attachment system of the sliding door is a terminating action for the repetitive inspections of the markings of the attachment screws of the rear LH upper catch for proper alignment.

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

FAA's Determination and Requirements of This Proposed AD

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0069 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0069 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0069 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0069 that is required for compliance with EASA AD 2020–0069 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0685 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 159 helicopters of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 3 work-hours × $85 per hour = Up to $255	$0	Up to $255	Up to $40,545

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
1 work-hours × $85 per hour = $85	$0	$85

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Helicopters: Docket No. FAA–2020–0685; Project Identifier MCAI–2020–00396–R.

(a) Comments Due Date

The FAA must receive comments by September 21, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Helicopters Model EC130B4 helicopters, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Reason

This AD was prompted by reports of inflight detachment of the left-hand (LH) side cabin sliding doors and cases of impact damage on the main rotor blades, which were caused by degradation of the sliding door locking mechanism. The FAA is issuing this AD to address degradation of the locking mechanism, which could lead to further events of inflight detachment of a LH side cabin sliding door, and possibly result in damage to the helicopter and injury to persons on the ground.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0069, dated March 24, 2020 (''EASA AD 2020–0069'').

(h) Exceptions to EASA AD 2020–0069

(1) Where EASA AD 2020–0069 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2020–0069 refers to January 24, 2019 (the effective date of EASA AD 2020–0069), this AD requires using the effective date of this AD.

(3) The ''Remarks'' section of EASA AD 2020–0069 does not apply to this AD.

(4) The ''Parts Installation'' allowance provided in paragraph (8) of EASA AD 2020–0069 does not apply to this AD.

(5) Although the service information referenced in EASA AD 2020–0069 specifies to discard certain parts, this AD does not include that requirement.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Kristi Bradley, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5485; 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, 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.

(j) Related Information

(1) For information about EASA AD 2020–0069, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material 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. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0685.

(2) For more information about this AD, contact Kristi Bradley, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5485; email *Kristin.Bradley@faa.gov.*

Issued on July 31, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–17128 Filed 8–5–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0745; Product Identifier 2019–CE–030–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Pilatus Aircraft Ltd. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct

an unsafe condition on an aviation product. The MCAI describes the unsafe condition as improperly manufactured horizontal stabilizer rear attachment bolts. If not corrected, this could lead to fatigue failure of the bolts and loss of airplane control. The FAA is proposing this AD address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by September 21, 2020.

ADDRESSES: You may send comments by any of the following methods:

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

For service information identified in this proposed AD, contact Pilatus Aircraft Ltd., Customer Technical Support (MCC), P.O. Box 992, CH–6371 Stans, Switzerland; telephone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: *Techsupport@pilatus-aircraft.com*; internet: *https://www.pilatus-aircraft.com.* You may review this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0745.

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–2020–0745; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, any comments received, and other information. The street address for Docket Operations is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0745; Product Identifier 2019–CE–030–AD'' at the beginning of your comments. The FAA will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

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 Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No. 2019–0129, dated June 6, 2019 (referred to after this as ''the MCAI''), to correct an unsafe condition for Pilatus Aircraft Ltd. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes. The MCAI states:

> On the final assembly line, horizontal stabilizer rear attachment bolts were detected that had not received correct heat treatment. Subsequent investigation determined that certain parts, identified by FAUF, were improperly manufactured and consequently have reduced material properties.
>
> This condition, if not corrected, could lead to a fatigue failure of an affected part, possibly resulting in loss of control of the aeroplane.
>
> To address this potential unsafe condition, Pilatus issued the [service bulletin] SB to provide inspection and replacement instructions.
>
> For the reason described above, this [EASA] AD requires replacement of affected parts, and prohibits (re)installation thereof.

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–2020–0745.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Pilatus Aircraft Ltd. PC–12 Service Bulletin No. 55–004, dated March 29, 2019. The service information contains procedures for checking the rear attachment bolts for the horizontal stabilizer and replacing any defective bolts. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of the Proposed AD

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

Costs of Compliance

The FAA estimates that this proposed AD would affect 14 products of U.S. registry. The average labor rate is $85 per work-hour.

The FAA estimates that the proposed actions would take 1.5 work-hours and require parts costing $5,000, for a cost of $5,127.50 per product and $71,785 for the U.S. operator fleet.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pilatus Aircraft Ltd.: Docket No. FAA–2020–0745; Product Identifier 2019–CE–030–AD.

(a) Comments Due Date

The FAA must receive comments by September 21, 2020.

(b) Affected ADs

None.

(c) Applicability

This airworthiness directive (AD) applies to Pilatus Aircraft Ltd. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes, all serial numbers, certificated in any category, with a horizontal stabilizer rear attachment bolt part number (P/N) 555.10.12.139 marked with production order number FAUF 10169753, FAUF 10171067, or FAUF 10171267 installed.

(d) Subject

Air Transport Association of America (ATA) Code 55: Stabilizers.

(e) Reason

This AD was prompted by a report of horizontal stabilizer rear attachment bolts that had not received correct heat treatment during the manufacturing process. The FAA is issuing this AD to prevent fatigue failure of a bolt and subsequent loss of airplane control.

(f) Actions and Compliance

(1) Within 1,350 hours time-in-service after the effective date of this AD or within 13 months after the effective date of this AD, whichever occurs first, replace each horizontal stabilizer rear attachment bolt P/N 555.10.12.139 marked with production order number FAUF 10169753, FAUF 10171067, or FAUF 10171267 by following the Accomplishment Instructions, section 3.B.(2) through (4) and figures 1 and 2, of Pilatus PC–12 Service Bulletin No. 55–004, dated March 29, 2019, except you are not required to return parts to the manufacturer.

(2) As of the effective date of this AD, do not install a horizontal stabilizer rear attachment bolt P/N 555.10.12.139 marked with production order number FAUF 10169753, FAUF 10171067, or FAUF 10171267 on any airplane.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector (PI), or lacking a PI, your local Flight Standards District Office.

(h) Related Information

Refer to mandatory continuing airworthiness information (MCAI) European Union Aviation Safety Agency AD No. 2019–0129, dated June 6, 2019, for related information. You may examine the MCAI on the internet at *https://www.regulations.gov* by searching for and locating Docket No FAA–2020–0745. For service information related to this AD, contact Pilatus Aircraft Ltd., Customer Technical Support (MCC), P.O. Box 992, CH–6371 Stans, Switzerland; telephone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: *Techsupport@pilatus-aircraft.com;* internet: *https://www.pilatus-aircraft.com.* You may review this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued on July 30, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–17038 Filed 8–5–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0552; Airspace Docket No. 18–ANM–11]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Coeur D'Alene, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E surface area airspace and establish Class E airspace extending upward from 700 feet above the surface at Coeur D'Alene—Pappy Boyington Field, Coeur D'Alene, ID, to support the Instrument Flight Rules (IFR) operations under standard instrument approach and departure procedures at the airport, for the safety and management of aircraft within the National Airspace System. Additionally, an editorial change would be made to the legal description replacing ''Airport/Facility Directory'' with the term ''Chart Supplement'' and updating the name of the airport to match the FAA aeronautical database.

DATES: Comments must be received on or before September 21, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2020–0552; Airspace Docket No. 18–ANM–11, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

FOR FURTHER INFORMATION CONTACT: Richard Roberts, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–2245.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E surface area airspace and establish Class E airspace extending upward from 700 feet AGL at Coeur D'Alene—Pappy Boyington Field, Coeur D'Alene, ID, to support IFR operations.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2020–0552; Airspace Docket No. 18–ANM–11''. The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying the Class E surface area airspace and establishing Class E airspace extending upward from 700 feet above the surface at Coeur D'Alene—Pappy Boyington Field, Coeur D'Alene, ID.

The Class E surface airspace 3.5 miles each side of the VOR/DME 251° radial west of the airport would be removed. The lateral boundary for the area south of the airport would be reduced from 1.8 miles each side of the 183° bearing to 1.3 miles and extend 6 miles from the airport instead of 8 miles. The additional airspace, in these two areas, is no longer required to support instrument operations. An area 1.8 miles each side of the 023° bearing would be added and extend 5 miles from the airport. This would enable instrument departures to reach 700 feet AGL before exiting the surface area.

Class E airspace extending upward from 700 feet above the surface would be established to within 4.4 miles of the airport with three areas extending beyond the 4.4-mile radius. One area, 4.4 miles each side of the 250° bearing, would extend from the airport 14.4 miles west. This section would accommodate the ILS and RNAV approaches. Another area would be established 1.3 miles each side of the 183° bearing and extend from the airport 10 miles south, to support the VOR approach. The third area would extend 1.8 miles each side of the 023° bearing 8 miles northeast from the airport. This section would protect aircraft using the Obstacle Departure Procedure. This airspace is necessary to support IFR approach and departure procedures at the airport.

Additionally, an editorial change would be made to the legal description replacing ''Airport/Facility Directory'' with the term ''Chart Supplement'' and updating the name of the airport to match the FAA's aeronautical database.

Class E airspace designations are published in paragraph 6002 and 6005 of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ANM ID E2 Coeur D'Alene, ID [Modified]

Coeur D'Alene—Pappy Boyington Field
(Lat. 47°46′28″ N, long 116°49′11″ W)

That airspace within a 4.4-mile radius of the Coeur D'Alene—Pappy Boyington Field, and within 1.3 miles each side of the 183° bearing extending from the 4.4-mile radius to 6 miles south of the airport, and that airspace 1.8 miles each side of the 023° bearing extending from the 4.4-mile radius to 5 miles northeast of the airport. This Class E airspace is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANM WA E5 Coeur D'Alene, ID [New]

Coeur d'Alene—Pappy Boyington Field
(Lat. 47°46′28″ N, long 116°49′11″ W)

That airspace within a 4.4-mile radius of the Coeur d'Alene—Pappy Boyington Field, and within 1.3 miles each side of the 183° bearing from the airport extending from the 4.4-mile radius to 10 miles south of the airport, and that airspace 4.4 miles each side of the 250° bearing from the Coeur d'Alene—Pappy Boyington Field extending from the 4.4-mile radius to 14.4 miles west of the airport and that airspace 1.8 miles each side of the 023° bearing from the Coeur d'Alene—Pappy Boyington Field extending from the 4.4-mile radius to 8 miles northeast from the airport.

Issued in Seattle, Washington, on July 29, 2020.

Byron Chew,

Group Manager, Acting Operations Support Group, Western Service Center.

[FR Doc. 2020–17060 Filed 8–5–20; 8:45 am]

BILLING CODE 4910–13–P

POSTAL SERVICE

39 CFR Part 113

Electronic Indicators for the Mailing of Hazardous and Perishable Materials

AGENCY: Postal Service™.

ACTION: Proposed revision for special standards; request for comment.

SUMMARY: The Postal Service proposes to amend the Publication 52, *Hazardous, Restricted, and Perishable Mail* (PUB 52) to provide unique electronic indicators and to standardize the Extra Services options for shipments of hazardous materials and perishable items.

DATES: Submit comments on or before September 8, 2020.

ADDRESSES: Mail or deliver written comments to the Manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to *PCFederalRegister@usps.gov,* with a subject line of ''Electronic Indicators''. Faxed comments will not be accepted.

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review Monday through Friday, 9 a.m. to 4 p.m., by calling 202–268–2906.

FOR FURTHER INFORMATION CONTACT: Mary Collins at (202) 251–2291, Kevin Gunther at (202) 268–7208 or Dale Kennedy (202) 268–6592.

SUPPLEMENTARY INFORMATION: The Postal Service is proposing to amend PUB 52 with the provisions below and, once adopted, will incorporate the revised PUB 52 by reference into part 113, as well as make necessary edits to the *Domestic Mail Manual.* You may view the text of the proposed edits to PUB 52 at: *https://pe.usps.com/.*

1. Require Electronic Verification System (eVS) and ePostage mailers to transmit a Shipping Services File (SSF) to the Postal Service before, or concurrent with the tendering of hazardous materials shipments.

2. Specify three unique Service Type Codes (STC), each to correspond to hazardous materials outbound shipments via Priority Mail®, First-Class Package Service®, Parcel Select®, Parcel Select Lightweight®, and USPS Retail Ground®.

3. Specify that insurance will be the only Extra Service available with shipments of hazardous materials. The Postal Service intends to provide a unique STC for each product without an Extra Service (which would include basic USPS tracking provided as a built-in feature of these products), purchases of insurance less than or equal to $500, and purchases of insurance over $500.

4. Specify four unique STCs for Priority Mail Express® shipments to identify those shipments where the mailer is requesting a waived signature, requiring a signature, purchasing insurance less than or equal to $500, or purchasing insurance over $500.

5. Specify three unique STCs to correspond with hazardous materials return services via Parcel Return Service (PRS) Full Network, traditional PRS, Priority Mail Return Service®, First-Class Package Return Service®, and Ground Return Service®, where each

STC will correspond to the product and any of the Extra Service options described above for outbound shipments. The Postal Service also proposes to specify unique STCs to explicitly identify Division 6.2, Infectious Substances returned through Postal Service Networks using each of these return services.

6. Provide unique Extra Service Codes (ESC) intended to identify categories of hazardous materials with specific relevance to segregation, handling and identification in Postal Service networks.

7. Specify unique STCs and ESCs to identify and categorize shipments of live bees, and day-old poultry to include Extra Services or additional fees for these content types.

8. Provide for the optional use of hazardous and perishable materials electronic indicators before the end of the 2020 calendar year and to require their use at a later date.

Overview

Due to the rapid expansion of eCommerce, the United States Postal Service® has encountered a significant increase in the number of hazardous material shipments going through the mail. Materials such as lithium batteries, flammable gases, non-flammable compressed gases, and corrosive cleaning solutions that were typically purchased through brick and mortar establishments are now routinely being purchased online and shipped to their destination. Additionally, with the outbreak of the Coronavirus (COVID–19) pandemic, there is a new emphasis on the transportation of infectious substances. This increase in hazardous material volume has brought with it a proportional increase in instances of improper labelling and packaging, use of ineligible shipping services, and an increase in safety related incidents in Postal Service facilities. These incidents have placed our employees, customers, and business partners in higher risks and resulted in millions of dollars in losses.

The Postal Service heavily relies on commercial cargo and passenger aircraft to transport mail in circumstances where the use of ground transportation is insufficient to meet its service standards or are otherwise operationally or financially impracticable. With regard to the transportation of hazardous materials, these commercial air carriers are subject to regulation by the Federal Aviation Administration (FAA), and the International Civil Aviation Organization (ICAO).

In accordance with FAA regulations, commercial air carriers are required to develop and maintain a Safety Management System (SMS). In applying the safety risk management concept of their SMS, air carriers conduct a systemic analysis to identify hazards and then develop and maintain processes to analyze the safety risks associated with the hazards identified. This process requires air carriers to acquire data with respect to its operations, products, and services to monitor the safety performance of their operations and conduct and update their risk assessments. The Postal Service tenders mail, including packages containing both non-hazardous and hazardous materials to its contracted air carriers in sacks. Due to the ''sacking'' of hazardous materials from the Postal Service, air carriers are often unaware of the specific hazardous materials they are accepting and transporting. Subsequently, without this information, air carriers are unable to accurately define and address the risks associated with the mail.

Proposal

To enhance its ability to make knowledgeable decisions regarding the handling and disposition of hazardous materials shipments in its networks and better leverage the use of its mechanized and automated systems to properly segregate and tender these items, the Postal Service proposes to require mailers to identify and categorize their hazardous materials shipments through the use of specified electronic indicators.

The Postal Service expects to use these indicators to provide details on the categories, volume and weight of the hazardous materials contained in packages tendered to its contracted transportation providers, and handle these packages in a safe and operationally efficient manner.

The Postal Service has enhanced its operational capability to provide piece-level tracking and visibility through the use of Intelligent Mail Package Barcodes (IMpb®). These barcodes are able to be scanned by automated processing equipment and Intelligent Mail scanning devices. Today, mailers are required to encode certain information into the barcode structure of the IMpb through the use of STCs and to encode additional information into a USPS-Approved SSF through the use of ESCs. As part of its package strategy, mailers tendering packages to the Postal Service are currently required to accurately encode their IMpb barcodes for each package and to supply a complete SSF concurrent with entering their packages into Postal Service Networks.

Restriction of Extra Services

The Postal Service proposes to restrict the Extra Service options available for shipments of regulated hazardous materials to include only insurance over and under $500 for most mail classes or products, and insurance over and under $500 in addition to waiver of signature for Priority Mail Express. The Postal Service is proposing this restriction in order to reduce the complexity for mailers complying with the new requirements, and to limit the number of STCs needed to identify hazardous materials in the Postal Service systems. The Postal Service has a fairly large number of ESCs available for use for the purposes of these new requirements, but is very limited in the availability of STCs. This limitation in the number of available STCs is a primary concern in the proposed restriction for Extra Services available for use with hazardous materials shipments. The Postal Service expects the demand for the variety of Extra Services covered under this proposed restriction to be low enough for shippers of hazardous materials to generally be of minor concern.

eVS and ePostage Users

The generation of the flight-specific air carrier manifests and the other operational enhancements proposed in this **Federal Register** Notice will be possible only when the information is included in a mailer's SSF, and is made available to all Postal Service systems in a timely fashion. It is for this reason that the Postal Service is proposing to require all impacted mailers to transmit an approved SSF before, or concurrent with, the physical tendering of regulated hazardous materials shipments to the Postal Service regardless of the postage payment method used. In addition to the other postage payment methods, this requirement would extend to mailers using electronic verification system (eVS).

Postal Meter and Legacy Barcode Users

To ensure electronic information for all hazardous materials shipments are available and concurrent with their induction into its networks, the Postal Service proposes to restrict shipments of hazardous materials from mailers using postage meters not capable of electronically transmitting transactional data to the Postal Service, and any other mailers who may still be using legacy package barcodes. These mailers are urged to transition to newer systems or to bring their hazardous materials to a Postal Service retail unit for induction.

Service Type Codes and Extra Service Codes for Hazardous Materials

The Postal Service proposes to specify three unique STCs, each to correspond to hazardous materials outbound shipments via Priority Mail, First-Class Package Service, Parcel Select, Parcel Select Lightweight, and USPS Retail Ground, and to provide a unique STC for each product without an Extra Service, requests for insurance less than or equal to $500, and requests for insurance over $500. The Postal Service also proposes to specify three unique STCs to correspond to hazardous materials return services shipments via the Parcel Return Service (PRS) Full Network, traditional PRS, Priority Mail Return Service, First-Class Package Return Service, and Ground Return Service, where each STC will correspond to the Extra Service options described above for outbound shipments, and to specify unique STCs to explicitly identify Division 6.2, Infectious Substances returned through Postal Service Networks using each of these return services. The Postal Service proposes unique STCs to identify Division 6.2 Infectious Substances because it believes this category of material is the most commonly shipped hazardous material in Postal Service Networks via a return service and the additional visibility into these shipments is beneficial to Postal Operations.

The Postal Service proposes to provide unique ESCs to identify specified categories of hazardous materials with specific relevance to segregation, handling and identification in Postal Service networks. The Postal Service plans to specify approximately 20 ESCs, each to identify a category of hazardous material that is associated with specific quantity restrictions, packaging and markings requirements, and for some ESCs, restrictions in air transportation. Included among the proposed categories to be assigned with a specific ESC, and intended for air transportation are:

- ID8000 Consumer Commodity
- Air-eligible Ethanol
- Excepted Quantity
- Division 5.1 Oxidizer
- Division 5.2 Organic Peroxide
- Division 6.1 Packaging Instruction 6B Toxic Material
- Class 8 Corrosive
- Class 8 Nonspillable battery
- Class 9 Dry Ice
- Class 9 Magnetized Material
- Class 9 Lithium Battery (marked)
- Class 9 Lithium Battery (unmarked)

The Postal Service has also specified proposed ESCs to correspond with categories of hazardous materials shipments intended for ground transportation, but will not specifically list them in this notice.

The Postal Service expects to have these STCs and ESCs available for optional use by mailers before the end of the 2020 calendar year. The Postal Service will work with the mailing industry to determine when the majority of mailers will be able to prepare their systems for the new requirements, and will announce a mandatory use date later this year.

STCs and ESCs for Perishable Materials Specifically Live Animals

In addition to the electronic indicators specific to hazardous materials, the Postal Service is also proposing new STCs and ESCs applicable to shipments of live animals. These indicators are intended to identify and categorize mailable live animal shipments, and provide necessary package-level details for perishable materials shipments when they include special pricing assessments. These required indicators will be leveraged within the new Package Platform initiative, enabling Postal Service permit systems to identify the shipments, and to ensure proper and accurate automated postage assessments and payment. These perishable materials indicators will specify additional charges applicable to live animals, such as the live animal transportation fee charged by airlines when specific types of live animals are shipped via air transportation, or Special Handling-Fragile fees when required by standards or when optionally requested by the mailer. Once fully implemented, use of these STCs and ESCs will be required for all mailings of live animals under the categories specified.

International Shipments

Most international packages do not include an IMpb, and will not have a STC associated with the package. However, during the postage payment process for most international packages, a SSF is generated and transmitted to the Postal Service. The Postal Service proposes to require mailers to include the hazardous materials ESCs applicable to the category of material being shipped. In accordance with *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®) part 135, only four categories of hazardous materials are permitted in international mail. Hazardous materials permitted in international mail are restricted to:

- Division 6.2, Infectious Substances (permitted only by authorization from Product Classification, USPS® Headquarters)
- Class 7, Radioactive Materials
- Class 9, Magnetic Materials
- Class 9,Lithium Batteries installed in equipment (unmarked)

The Postal Service expects to provide access to the STCs applicable to these hazardous materials categories for use with international mail.

Systems Enhancements

To provide greater visibility into the quantities, weights, and categories of hazardous materials being tendered to its contracted air carriers, the Postal Service plans to provide an electronic and hardcopy (if needed) manifest to the pilot of each flight carrying hazardous materials in the mail. The Postal Service expects to supply this manifest, similar to a commercial air waybill, prior to physically tendering the mail to the air carrier. The manifest will supply the details on the categories of hazardous materials offered for transportation on each flight. The information will be provided from the electronic indicators supplied by mailers under these proposed requirements, and will be detailed under each of the hazardous materials categories specified for air transportation as previously specified in the notice. The Postal Service believes these detailed manifests will result in greater confidence in the safety of the pilot, crew, and the public traveling on passenger aircraft that also carry mail. The manifests will also supply hazardous materials content information sufficient to enable air carriers to better analyze their safety risks associated with the mail in the development of their SMS.

These electronic indicators will also provide the ability of Postal Operations to identify packages containing hazardous materials and the categories under which they fall. This additional information will allow the separation or consolidation of hazardous materials packages as necessary to meet operational requirements and allow Operations to affix the applicable markings when necessary to the container. If this proposal is adopted, Postal Operations will review its systems and processes and will investigate the feasibility of adopting enhancements using the hazardous materials data provided by these proposed requirements.

If this proposal is adopted, the revisions to postage payment platforms may enable the Postal Service to build in safeguards to notify its mailers when they attempt to combine a product that

is incompatible with the selected category of hazardous material. For example, the Postal Service may be able to warn (or lock out) a mailer during the postage payment process, when the mailer attempts to combine an air-eligible product (*e.g.,* First-Class Package Service or Priority Mail) with a category of hazardous material restricted to ground transportation only (*e.g.* limited quantity ground material or flammable solid). If this proposal is adopted, the Postal Service plans to review its systems to determine if such an enhancement is possible and practical.

Enforcement

If this proposal is adopted, the United States Postal Inspection Service® (USPIS®) expects universal compliance by mailers following a reasonable period of time to communicate the new requirements to mailers and postage payment providers, and for them to make the necessary changes to their systems. Following the implementation period, the USPIS intends to enforce these new requirements using its civil penalty authority under 39 U.S.C. 3018.

Brittany Johnson,

Attorney, Federal Compliance.

[FR Doc. 2020–15773 Filed 8–5–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 412

[CMS–1739–P]

RIN 0938–AU24

Medicare Program; Treatment of Medicare Part C Days in the Calculation of a Hospital's Medicare Disproportionate Patient Percentage

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish a policy concerning the treatment of patient days associated with persons enrolled in a Medicare Part C (also known as ''Medicare Advantage'') plan for purposes of calculating a hospital's disproportionate patient percentage for cost reporting periods starting before fiscal year (FY) 2014 in response to the ruling in *Azar* v. *Allina Health Services,* 139 S. Ct. 1804 (June 3, 2019).

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on EDT on October 5, 2020.

ADDRESSES: In commenting, please refer to file code CMS–1739–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1739–P, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1739–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Donald Thompson (410) 786–4487.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments.

I. Executive Summary and Background

A. Purpose and Legal Authority

This proposed rule would create a policy governing the treatment of days associated with beneficiaries enrolled in Medicare Part C for discharges occurring prior to October 1, 2013, for the purposes of determining the additional Medicare payments to subsection (d) hospitals under section 1886(d)(5)(F) of the Social Security Act (the Act).

B. Summary of Major Provisions

Section 1886(d)(5)(F) of the Act provides for additional Medicare payments to subsection (d) hospitals that serve a significantly disproportionate number of low income patients. The Act specifies two methods by which a hospital may qualify for the Medicare disproportionate share hospital (DSH) payment adjustment. Under the first method, hospitals that are located in an urban area and have 100 or more beds may receive a Medicare DSH payment adjustment if the hospital can demonstrate that, during its cost reporting period, more than 30 percent of its net inpatient care revenues are derived from State and local government payments for care furnished to needy patients with low incomes. This method is commonly referred to as the ''Pickle method.'' The second method for qualifying for the DSH payment adjustment, which is more common, is based on a complex statutory formula under which the DSH payment adjustment is based on the hospital's geographic designation, the number of beds in the hospital, and the hospital's disproportionate patient percentage (DPP). A hospital's DPP is the sum of two fractions: The ''Medicare fraction'' and the ''Medicaid fraction.'' The Medicare fraction (also known as the SSI fraction or SSI ratio) is computed by dividing the number of the hospital's inpatient days that are furnished to patients who were entitled to both Medicare Part A and Supplemental Security Income (SSI) benefits by the hospital's total number of patient days furnished to patients entitled to benefits under Medicare Part A. The Medicaid fraction is computed by dividing the hospital's number of inpatient days furnished to patients who, for such days, were eligible for Medicaid, but were not entitled to benefits under Medicare Part A, by the hospital's total number of inpatient days in the same period.

Because the DSH payment adjustment is part of the inpatient prospective payment system (IPPS), the statutory references to ''days'' in section 1886(d)(5)(F) of the Act have been interpreted to apply only to hospital acute care inpatient days. Regulations located at 42 CFR 412.106 govern the Medicare DSH payment adjustment and specify how the DPP is calculated as well as how beds and patient days are counted in determining the Medicare DSH payment adjustment.

C. Summary of Costs and Benefits

If we adopted our proposal to include days associated with patients enrolled

in Medicare Part C in the calculation of the SSI ratio and to exclude them from the calculation of the numerator of the Medicaid fraction, there would not be any additional costs or benefits relative to the Medicare DSH payments that have already been made because those payments were made under the policy reflected in the proposal (prior to it having been vacated). The effect of this proposed rule would be to avoid the consequences of legal ambiguity that would otherwise continue into the future; the resulting costs, benefits and transfer impacts are thus highly uncertain.

In order to quantify one point in the relevant uncertainty range, we considered excluding days associated with patients enrolled in Medicare Part C from the calculation of the SSI ratio and (for patients also eligible for Medicaid) including them in the calculation of the numerator of the Medicaid fraction. We refer readers to section V.D. of this proposed rule for a discussion of this alternative considered.

II. Provisions of the Proposed Regulations—Treatment of Patient Days Associated With Patients Enrolled in Medicare Advantage Plans With Discharge Dates Before October 1, 2013, in the Medicare and Medicaid Fractions of the Disproportionate Patient Percentage (DPP)

The regulation at 42 CFR 422.2 defines Medicare Advantage (MA) plan to mean ''health benefits coverage offered under a policy or contract by an MA organization that includes a specific set of health benefits offered at a uniform premium and uniform level of cost-sharing to all Medicare beneficiaries residing in the service area of the MA plan . . . .'' Generally, each MA plan must at least provide coverage of all services that are covered by Medicare Part A and Part B, but also may provide for Medicare Part D benefits and/or additional supplemental benefits. However, certain items and services, such as hospice benefits, continue to be covered under Medicare Part A fee-for-service (FFS) even if a beneficiary chooses to enroll in an MA plan. Generally, under § 422.50 of the regulations, an individual is eligible to elect an MA plan if he or she is entitled to Medicare Part A and enrolled in Medicare Part B. Dually eligible beneficiaries (individuals entitled to Medicare and eligible for Medicaid) also may choose to enroll in an MA plan, and, as an additional supplemental benefit, the MA plan may pay for Medicare cost-sharing not covered by Medicaid.

In the FY 2004 IPPS proposed rule (68 FR 27208), in response to questions about whether the patient days associated with patients enrolled in an MA plan (then called a Medicare + Choice (M+C) plan) should be counted in the Medicare fraction or the Medicaid fraction of the disproportionate patient percentage (DPP) calculation, we proposed that once a beneficiary enrolls in an MA plan, patient days attributable to the beneficiary would not be included in the Medicare fraction of the DPP. Instead, those patient days would be included in the numerator of the Medicaid fraction, if the patient also were eligible for Medicaid. In the FY 2004 IPPS final rule (68 FR 45422), we did not respond to public comments on this proposal, due to the volume and nature of the public comments we received, and we indicated that we would address those comments later in a separate document. In the FY 2005 IPPS proposed rule (69 FR 28286), we stated that we planned to address the FY 2004 comments regarding MA days in the IPPS final rule for FY 2005. After considering comments on this proposal, we decided not to implement the policy as proposed. Instead, in the FY 2005 IPPS final rule (69 FR 49099), we determined that, under § 412.106(b)(2)(i) of the regulations, MA patient days should be counted in the Medicare fraction of the DPP calculation. (We note, at the time of the FY 2005 rulemaking, Medicare Part C was referred to as M+C; however, to avoid confusion we use the current terminology (MA) when referring to Medicare Part C.) We explained that, even where Medicare beneficiaries enroll in an MA plan, they are still entitled to benefits under Medicare Part A. Therefore, we noted that if an MA beneficiary is also an SSI recipient, the patient days for that beneficiary would be included in the numerator of the Medicare fraction (as well as in the denominator) and not in the numerator of the Medicaid fraction. We note that, despite our statement in the FY 2005 final rule that the text of the regulation at § 412.106(b)(2)(i) would be revised to state explicitly that the days associated with MA beneficiaries are included in the Medicare fraction, due to a clerical oversight, the regulation at § 412.106(b)(2)(i) was not amended to reflect this policy until 2007 (72 FR 47384).

In 2012, a district court vacated the final policy adopted in the FY 2005 final rule on the basis that the final rule was not a ''logical outgrowth'' of the proposed rule. In the FY 2014 IPPS/LTCH PPS proposed rule, we proposed to re-adopt the policy of including MA patient days in the Medicare fraction prospectively for FY 2014 and subsequent fiscal years (78 FR 27578). We finalized this proposal in the FY 2014 IPPS/LTCH PPS final rule (78 FR 50614). We made no change to the regulation text at § 412.106(b)(2)(i) because the text of the regulation already reflected the policy we adopted in the FY 2014 IPPS/LTCH PPS final rule. In 2014, the United States Court of Appeals for the D.C. Circuit upheld the district court's holding that the policy adopted in the FY 2005 IPPS final rule requiring inclusion of Part C days in the Medicare fraction was not a logical outgrowth of the proposed rule, but left open the possibility that we could employ the same approach through adjudication.

In *Azar* v. *Allina Health Services,* 139 S. Ct. 1804 (June 3, 2019), the Supreme Court considered a challenge to the agency's inclusion of MA patient days in the Medicare fractions it published for FY 2012. Section 1871(a)(2) of the Act requires notice-and-comment rulemaking for any Medicare ''rule, requirement, or other statement of policy'' that ''establishes or changes a substantive legal standard governing the scope of benefits, the payment for services, or the eligibility of individuals, entities, or organizations to furnish or receive services or benefits.'' The Supreme Court held that section 1871(a)(2) of the Act required CMS to engage in notice-and-comment rulemaking before adopting its policy regarding treatment of inpatient days for beneficiaries enrolled in MA plans for purposes of calculating the DPP.

Section 1871(e)(1)(A) of the Act authorizes CMS to engage in retroactive rulemaking when the Secretary determines that such retroactive application is necessary to comply with statutory requirements or that a failure to apply a policy retroactively would be contrary to the public interest. For example, CMS has invoked its authority to engage in retroactive rulemaking under section 1871(e)(1)(A) of the Act in connection with its policy related to bad debt (see the FY 2021 IPPS/LTCH PPS proposed rule (85 FR 32867)), predicate facts and cost report reopening (see the CY 2014 OPPS final rule (78 FR 75165)), and the low-volume hospital adjustment (see the FY 2020 IPPS/LTCH PPS final rule (84 FR 42349)).

Section 1886(d)(5)(F) of the Act requires CMS to make DSH payments to eligible hospitals. Calculating such payments, in turn, requires CMS to calculate a Medicare and a Medicaid fraction for each hospital. Under section 1886(d)(5)(F)(vi)(I) of the Act, the

Medicare fraction must include the patient days for beneficiaries ''entitled to benefits under part A.'' The Court of Appeals for the D.C. Circuit has held that the Medicare statute does not speak directly to how Part C days should be treated for purposes of DSH calculations, that is, whether Part C patients are ''entitled to benefits under part A'' and should therefore be included in the Medicare fraction, or whether they are not so entitled, and should therefore be included in the numerator of the Medicaid fraction if they are also eligible for Medicaid. (See *Ne. Hosp. Corp.* v. *Sebelius,* 657 F.3d 1, 13 (D.C. Cir. 2011).) However, the court has also found that section 1886(d)(5)(F)(vi) of the Act requires the Secretary to account for Part C days in the DPP calculation by including them in one of the fractions (Medicare or Medicaid) and excluding them from the other. (See *Allina Health Servs.* v. *Sebelius,* 746 F.3d 1102, 1108 (D.C. Cir. 2014).)

Because the FY 2005 IPPS final rule was vacated, the Secretary ''has no promulgated rule governing'' the treatment of Part C days for fiscal years before 2014.'' (See *Allina Health Servs.* v. *Price,* 863 F.3d 937, 939 (D.C. Cir. 2017).) As a result, in order to comply with the statutory requirement to calculate Medicare DSH payments, CMS must determine whether beneficiaries enrolled in Part C are ''entitled to benefits under part A'' and so must be included in the Medicare fraction (and excluded from the numerator of the Medicaid fraction), or are not so entitled and so must be excluded from the Medicare fraction (and included in the numerator of the Medicaid fraction, if dually eligible). The Secretary has therefore determined that, in order to comply with the statutory requirement to make DSH payments, it is necessary for CMS to engage in retroactive rulemaking to establish a policy to govern whether individuals enrolled in MA plans under Part C should be included in the Medicare fraction or in the numerator of the Medicaid fraction, if dually eligible, for fiscal years before 2014.

We continue to believe, as we stated in the preamble to the FY 2014 IPPS/LTCH PPS final rule (78 FR 50614 and 50615) and have consistently expressed since the issuance of the FY 2005 IPPS final rule, that individuals enrolled in MA plans are ''entitled to benefits under part A'' as the phrase is used in the DSH provisions at section 1886(d)(5)(F)(vi) of the Act. Section 226(a) of the Act provides that an individual is automatically ''entitled'' to Medicare Part A when the person reaches age 65 or becomes disabled, provided that the individual is entitled to Social Security benefits under section 202 of the Act. Beneficiaries who are enrolled in MA plans provided under Medicare Part C continue to meet all of the statutory criteria for entitlement to Medicare Part A benefits under section 226 of the Act. Moreover, section 1852(a)(1)(B)(i) of the Act provides that in order to enroll in Medicare Part C, or to change from one MA plan to another MA plan offered under Part C, a beneficiary must be ''entitled to benefits under Part A and enrolled under Part B.'' Thus, by definition, a beneficiary must be entitled to Part A to be enrolled in Part C. There is nothing in the Act that suggests that beneficiaries who enroll in a Medicare Part C plan thereby forfeit their entitlement to Medicare Part A benefits. To the contrary, enrollment in a plan under Medicare Part C is simply an option that a person entitled to Part A benefits may choose as a way to receive their Part A benefits. A beneficiary who enrolls in Medicare Part C is entitled to receive benefits under Medicare Part A through the MA plan in which he or she is enrolled, and the MA organization's costs in providing such Part A benefits are paid for by CMS with money from the Medicare Part A Trust Fund. In addition, under certain circumstances, Medicare Part A pays directly for care furnished to patients enrolled in Medicare Part C plans, rather than indirectly through Medicare Part A Trust Fund payments to MA organizations. For example, under section 1852(a)(5) of the Act, if, during the course of the year, the scope of benefits provided under Medicare Part A expands beyond a certain cost threshold due to Congressional action or a national coverage determination, Medicare Part A will pay providers directly for the cost of those services provided to beneficiaries enrolled in Part C. Similarly, Medicare Part A pays directly for hospice care furnished to MA patients who elect under section 1812(d)(1) of the Act to receive such care from a particular hospice program and, under certain circumstances, for federally qualified health center (FQHC) services provided to MA patients by FQHCs that contract with MA organizations under sections 1853(h)(2) and 1853(a)(4) of the Act, respectively. Thus, we continue to believe that a patient enrolled in an MA plan remains entitled to benefits under Medicare Part A, and should be counted in the Medicare fraction of the DPP, and not the numerator of the Medicaid fraction.

Additionally, the Secretary has determined that it is in the public interest for CMS to adopt a policy for the treatment of MA patient days in the Medicare and Medicaid fractions through notice and comment rulemaking retroactively for discharges before October 1, 2013 (the effective date of the FY 2014 IPPS/LTCH PPS final rule). CMS must calculate DSH payments for periods that include discharges occurring before the effective date of the FY 2014 prospective rule for hundreds of hospitals whose DSH payments for those periods are still open or have not yet been finally settled, encompassing thousands of cost reports. In order to calculate these payments, CMS must establish Medicare fractions for each applicable cost reporting period during the time period for which there is currently no regulation in place that expressly addresses the treatment of Part C days. Because the Supreme Court has held that CMS cannot resolve this issue except by notice-and-comment rulemaking, we have concluded that the only way for CMS to resolve this issue and properly calculate DSH payments for time periods before FY 2014 is to establish a new regulation that would apply retroactively to the determination of Medicare and Medicaid fractions for this time period. Consequently, retroactive rulemaking is not only necessary to comply with statutory requirements, but is also necessary to avoid an outcome that would be contrary to the public interest. Absent such a retroactive rule, the Secretary would be unable to calculate and confirm proper DSH payments for time periods before FY 2014, which would be contrary to the public interest of providing additional payments to hospitals that serve a significantly disproportionate number of low-income patients, as expressed in the DSH provisions of the Medicare statute. Moreover, to the extent the Secretary must adopt an approach to calculate those payments, it is in the public interest to permit interested stakeholders to comment on the proposed approach and for the agency to have the benefit of those comments in the development of any final rule. Therefore, for the purposes of calculating the Medicare and Medicaid fractions for cost reporting periods that include discharges before October 1, 2013, we are proposing to adopt the same policy of including MA patient days in the Medicare fraction that was prospectively adopted in the FY 2014 IPPS/LTCH PPS final rule and to apply this policy retroactively to any cost

reports that remain open for cost reporting periods starting before October 1, 2013. We do not expect this proposal to have an effect on payments as the payments previously made reflect the proposed policy. We are not proposing any change to the regulation text because the current text at § 412.106(b)(2)(i) reflects the policy being proposed for fiscal years before FY 2014.

Because we are proposing to establish this policy retroactively, it would cover cost reporting periods for which many cost reports have already been final settled. Consistent with § 405.1885(c)(2), any final rule retroactively adopting the policy at § 412.106(b)(2)(i) for fiscal years before FY 2014 would not be a basis for reopening these final settled cost reports.

We seek comments on our proposal to include MA patient days in the Medicare fraction for fiscal years before FY 2014, and also on the alternative, which is discussed in detail in section V. of this proposed rule, of including MA patient days for dually eligible beneficiaries in the numerator of the Medicaid fraction for those fiscal years.

III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

V. Regulatory Impact Analysis

A. Statement of Need

This proposal is necessary to create a policy governing the treatment of days associated with beneficiaries enrolled in Medicare Part C for discharges occurring prior to October 1, 2013, for the purposes of determining additional Medicare payments to subsection (d) hospitals under section 1886(d)(5)(F) of the Act.

B. Overall Impact

We have examined the impact of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (5 U.S.C. 603), section 1102(b) of the Act, section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2)), and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

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). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

The discussion accompanying our proposal along with this Regulatory Impact Analysis (RIA) demonstrate that this proposed rule has been analyzed consistent with the regulatory philosophy and principles identified in Executive Orders 12866 and 13563, the RFA, and section 1102(b) of the Act. We note that Medicare DSH payments affect a substantial number of small rural hospitals, as well as other classes of hospitals, and the effect of Medicare DSH payments on some hospitals is significant.

An RIA must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This rulemaking is ''economically significant'' as measured by the $100 million threshold, and hence also a major rule under the Congressional Review Act, 5 U.S.C. 804(2). Accordingly, we have prepared an RIA that to the best of our ability presents the costs and benefits of the rulemaking.

C. Detailed Economic Analysis

Medicare DSH payments have already been made under the policy reflected in the proposal (prior to the policy having been vacated by the Court of Appeals, which was affirmed by the Supreme Court's decision). Therefore, the effect of this proposed rule would be to avoid the consequences of legal ambiguity that would otherwise continue into the future; the resulting costs, benefits and transfer impacts are thus highly uncertain. In other words, given that there is currently no regulation governing the treatment of Part C days, it is not clear what to compare an estimate of DSH payments under our proposed policy to in order determine the effect of our proposed policy on DSH payments. There are multiple possible trajectories whereby agency actions could be made consistent with the Supreme Court's ruling requiring notice-and-comment rulemaking. Our proposed policy is one such trajectory and DSH payments made under our proposed policy would not differ from hospitals' historical DSH payments. This comparison between DSH payments under our proposed policy and hospitals' historical DSH payments quantifies one point within the relevant uncertainty range of potential costs, benefits, and transfer impacts. However, in order to explore another possible trajectory (and thus to quantify an additional point within the relevant uncertainty range), we considered an approach of excluding days associated with patients enrolled in Medicare Part C from the calculation of the SSI ratio and including them in the numerator of the Medicaid fraction (for those patients who are dually eligible). We are not proposing such a policy because we continue to believe, as we stated in the preamble to the FY 2014 IPPS/LTCH PPS final rule (78 FR 50614 and 50615) and have consistently expressed since the issuance of the FY 2005 IPPS final rule, that individuals enrolled in MA plans are ''entitled to benefits under part A'' as the phrase is used in the DSH provisions at section 1886(d)(5)(F)(vi) of the Act.

We created a public use data file in order to facilitate public comment and analysis of our proposal and the alternative approach. This file is available in the Downloads section of the Disproportionate Share Hospital

web page on the CMS website: *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/dsh.* The file contains an illustrative model at the hospital level of the potential effect on the DSH adjustment of excluding days associated with patients enrolled in Medicare Part C from the SSI ratio and including them in the numerator of the Medicaid fraction (for those patients who are dually eligible).

In constructing the model, we used data from hospital cost reports for hospitals that were eligible for and received Medicare DSH payments for their longest cost reporting period ending between January 1, 2013, and December 31, 2013, inclusive of those dates, as reflected in the Healthcare Cost Report Information System (HCRIS) data. (For more information on the HCRIS data, see *https://www.cms.gov/Research-Statistics-Data-and-Systems/Downloadable-Public-Use-Files/Cost-Reports/Hospital-2010-form.*) We chose this time period to model because these cost reports generally contain the bulk of the most recent cost report data for hospitals prior to our readopting the policy of including MA patient days in the Medicare fraction in the FY 2014 IPPS/LTCH PPS final rule. We also incorporated relevant data from the MedPAR data files and the SSI eligibility files pertaining to that time period. These are the same source files used to construct the FY SSI Ratio files also found in the Downloads section of the Disproportionate Share Hospital web page on the CMS website.

In order to model the Medicare fraction for each hospital, we estimated the SSI ratio applicable to that hospital's cost report after excluding days associated with patients enrolled in Medicare Part C.

In order to model the Medicaid fraction for each hospital, we used the days associated with patients enrolled in Medicare Part C who were also eligible for SSI, based on the applicable SSI eligibility data, as a proxy for the Medicaid days associated with patients enrolled in Medicare Part C. We used this proxy, because we do not have readily available specific data on Medicaid eligibility for beneficiares who are eligible for SSI benefits. However, we believe this proxy is reasonable because the majority of states provide Medicaid eligibility to people eligible for SSI benefits. The Part C SSI days for each hospital were then added to the numerator of the otherwise applicable Medicaid fraction for that hospital as reflected in the hospital's cost report data.

We then used these alternative Medicare and Medicaid fractions to model the percent change in the Medicare DSH adjustment for the hospital.

The modelled percent change in the Medicare DSH adjustment was applied to an annualized Medicare DSH payment from the hospital's cost report to estimate the 12-month change in Medicare DSH payments to that hospital.

Based on this model, most hospitals' Medicare DSH payments would increase relative to their historical Medicare DSH payments; however, some hospitals' Medicare DSH payments would decrease or not change. In aggregate, the modelled Medicare DSH payments would increase by 6 percent relative to the historical Medicare DSH payments, which for the hospitals represented in the model was approximately a net $0.6 billion annualized increase for this time period.

We note that these estimates are for illustrative purposes and involve modelling assumptions (for example, use of a proxy for the Medicaid days associated with patients enrolled in Medicare Part C, as described previously), which may differ from actual calculations that would be done during cost report review and settlement processes by contractors if such a policy were adopted. These expenditures (or, as regards payments already made for past years, the avoidance of potentially necessary reimbursements from providers to the Trust Fund) would be classified as transfers to Medicare providers.

We are seeking comments on this illustrative model and the assumptions used in this analysis.

D. Alternative Considered

We considered as an alternative to our proposal excluding days associated with patients enrolled in Medicare Part C from the calculation of the SSI ratio and including them in the calculation of the Medicaid fraction. However, we are not proposing such a policy because we continue to believe, as we stated in the preamble to the FY 2014 IPPS/LTCH PPS final rule (78 FR 50614 and 50615) and have consistently expressed since the issuance of the FY 2005 IPPS final rule, that individuals enrolled in MA plans are ''entitled to benefits under part A'' as the phrase is used in the DSH provisions at section 1886(d)(5)(F)(vi) of the Act.

Similar to the discussion in section V.C. of this proposed rule regarding DSH payments under our proposed policy, because it is not clear what DSH payments prior to FY 2014 would be given that there is currently no regulation governing the treatment of Part C days, it is not clear what to compare an estimate of DSH payments under the alternative to in order to determine the change in DSH payments. Taking the quantitative impact estimate that appears earlier that DSH payments made under the alternative policy would represent an increase of $0.6 billion over hospitals' historical DSH payments for the relevant time period—that is, projecting a transfer of the same $0.6 billion magnitude — yields an estimate of the alternative's impact relative to hospitals' historical DSH payments. As in the analysis of the policy as proposed, the alternative's impact estimate represents a boundary on an especially wide uncertainty range.

E. Accounting Statement

As required by OMB Circular A–4, in the following Table 1, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this proposed rule as they relate to hospitals receiving Medicare DSH payments. This table provides our best estimate of the change in Medicare DSH payments to hospitals as a result of our proposal. All expenditures are classified as transfers to Medicare providers.

TABLE 1—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED MEDICARE DSH EXPENDITURES PRIOR TO FY 2014

Category	Transfers
Annualized Monetized Transfers.	$0 to–$0.6 billion.
From Whom to Whom	Federal Government to Hospitals Receiving Medicare DSH Payments.

F. Regulatory Flexibility Act (RFA)

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $7.5 million to $38.5 million in any 1 year. Individuals and states are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined, and the Secretary certifies, that if we adopted our proposal there would not be any additional costs or

benefits relative to Medicare DSH payments that have already been made. Therefore, this proposed rule will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that if we adopted our proposal there would not be any additional costs or benefits for small rural hospitals relative to Medicare DSH payments that have already been made to these hospitals. Therefore, this proposed rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

G. Unfunded Mandates Reform Act (UMRA)

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2020, that threshold is approximately $156 million. This proposed rule will have no consequential effect on state, local, or tribal governments or on the private sector.

H. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. Since this regulation does not impose any costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

I. Regulatory Reform Analysis Under Executive Order 13771

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017, and requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' OMB's *Guidance Implementing Executive Order 13771, Titled* ''*Reducing Regulation and Controlling Regulatory Costs*'', issued on April 5, 2017, *available at https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-21-OMB.pdf,* explains that ''E.O. 13771 deregulatory actions are not limited to those defined as significant under E.O. 12866 or OMB's *Final Bulletin on Good Guidance Practices.*'' It has been determined that this proposed rule imposes no more than de minimis costs, and therefore is not considered a regulatory action under Executive Order 13771.

In accordance with the provisions of Executive Order 12866, this proposed rule was reviewed by the Office of Management and Budget.

Dated: March 24, 2020.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: April 09, 2020.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

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Notices

Federal Register

Vol. 85, No. 152

Thursday, August 6, 2020

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 3, 2020.

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

Comments regarding this information collection received by September 8, 2020 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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

Food and Nutrition Service

Title: Turnip the Beet! High Quality Summer Meals Program.

OMB Control Number: 0584–NEW.

Summary of Collection: Turnip the Beet is a voluntary award program to recognize participating sponsoring organizations (sponsors) in the Summer Food Service Program (SFSP) or the National School Lunch Program (NSLP) Seamless Summer Option (SSO) that work hard to offer high quality, nutritious meals during the summer months. The SFSP is administered through sponsoring organizations that host meal sites in a wide variety of settings, while the SSO is administered through sponsoring school districts, offering an opportunity for the districts to provide a seamless transition between school meals and summer meals. Turnip the Beet is a tool to motivate summer meal sponsors to go above and beyond basic regulatory requirements for the respective program meal patterns. This voluntary information collection is authorized under 42 U.S.C. 1761 Richard B. Russell National School Lunch Act.

Need and Use of the Information: The information needed to process the voluntary award nominations is collected from State Program Staff and Businesses (SFSP or NSLP/SSO Program Sponsors). Sponsors can submit nomination packets to the State Agencies, who verify that the packet is complete. The State Agencies then forward the nominations to FNS who score the nominations to determine the award winners. The nomination process allows FNS to accurately assess the quality of meal service in order to determine whether the individual sponsor qualifies for Turnip the Beet recognition. The Turnip the Beet award encourages sponsoring organizations to think creatively and strive for best practices in their summer meals, thereby improving children's access to nutritious, well-balanced meals. This allows FNS to administer summer meal programs that serve the needs of communities nationwide, placing an increased emphasis on the health of children without adding regulatory requirements for the meals.

Description of Respondents: State, Local, or Tribal Government; and Profit/Non-Profit Businesses.

Number of Respondents: 186.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 225.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–17149 Filed 8–5–20; 8:45 am]

BILLING CODE 3410–30–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Virginia 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 Virginia Advisory Committee (Committee) will hold a meeting on Thursday, August 20, 2020 at 12:00 p.m. Eastern time. The Committee will discuss its draft report on hate crime in Virginia.

DATES: The meeting will take place on Thursday, August 20, 2020 at 12:00 p.m. Eastern time.

Public Call Information: Dial: 800–353–6461, Conference ID: 7676025.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to these discussions. Committee meetings are available to the public through the above call in number. 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 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 mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Virginia 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 Regional Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call
Civil Rights in Virginia
Future Plans and Actions
Public Comment
Adjournment

Dated: August 3, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–17210 Filed 8–5–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–054]

Certain Aluminum Foil from the People's Republic of China: Notice of Court Decision Not in Harmony With the Amended Final Determination in the Countervailing Duty Investigation, and Notice of Amended Final Determination and Amended Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 24, 2020, the United States Court of International Trade (CIT) issued its final judgment in *Jiangsu Zhongji Lamination Materials Co., Ltd.* v. *United States,* Court No. 18–00089, sustaining the Department of Commerce (Commerce)'s remand redetermination concerning the final determination in the countervailing duty (CVD) investigation of certain aluminum foil (aluminum foil) from the People's Republic of China (China), covering the period of investigation (POI) January 1, 2016 through December 31, 2016. Commerce is notifying the public that the CIT's final judgment is not in harmony with the *Amended Final Determination* and *Order* of the investigation and that Commerce is amending the *Amended Final Determination* and *Order* with respect to the CVD cash deposit rate assigned to Jiangsu Zhongji Lamination Materials Co., Ltd., Shantou Wanshun Package Material Stock Co., Ltd., Jiangsu Huafeng Aluminum Industry Co., Ltd., and Jiangsu Zhongji Lamination Materials Co., (HK) Ltd. (collectively, Zhongji) and all other companies.

DATES: Applicable April 3, 2020.

FOR FURTHER INFORMATION CONTACT: John McGowan, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–3019.

SUPPLEMENTARY INFORMATION:

Background

On March 5, 2018, Commerce published the *Final Determination,* finding, *inter alia,* that Zhongji used the Export Buyer's Credit Program and failed to meet the criteria for an entered value adjustment.[1] Commerce published an *Amended Final Determination* and *Order* resulting from the investigation on April 19, 2018.[2] Zhongji challenged the *Amended Final Determination* and *Order* before the CIT. On September 18, 2019, the CIT remanded Commerce's determination for further analysis, instructing the parties to contemplate a solution to the impasse and to confer for the Export Buyer's Credit Program, and instructing Commerce to identify the information that Commerce uncovered at verification that caused Commerce to find unsupported Zhongji's request for an entered value adjustment (EVA).[3] Commerce issued a redetermination on remand, under protest, explaining Commerce's position that Commerce cannot accurately verify use of the Export Buyer's Credit Program without the cooperation of the Government of China, but nevertheless finding that Zhongji did not use the Export Buyer's Credit Program, in light of the CIT's remands on the issue.[4] Additionally, in its redetermination, Commerce addressed how information discovered at verification supported its finding that Zhongji's request for an EVA is unsupported, however, because Zhongji was not provided notice that Commerce intended to reconsider its EVA methodology for the *Final Determination,* Commerce determined it appropriate to grant Zhongji's EVA request. On March 24, 2020, the Court sustained the *Remand Results.*[5]

Timken Notice

In its decision in *Timken,*[6] as clarified by *Diamond Sawblades,*[7] the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's March 24, 2020, judgment in this case constitutes a final decision of the court that is not in harmony with Commerce's *Amended Final Determination* and *Order.* This notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Determination and Order

Because there is now a final court decision, Commerce is amending its *Amended Final Determination* and *Order.* Commerce finds that the revised countervailable subsidy rate for Zhongji is 6.46 percent. We have also re-calculated the all-others rate to 13.28 percent.

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[1] *See Countervailing Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Final Affirmative Determination,* 83 FR 9274 (March 5, 2018) (*Final Determination*), and accompanying Issues and Decision Memorandum.

[2] *See Certain Aluminum Foil from the People's Republic of China: Amended Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 83 FR 17360 (April 19, 2018) (*Amended Final Determination* and *Order*).

[3] *See Jiangsu Zhongji Lamination Materials Co., Ltd.* v. *United States,* Court No. 18–00089, Slip Op. 19–122 (CIT September 18, 2019).

[4] *See* Final Results of Redetermination Pursuant to Court Order, *Jiangsu Zhongji Lamination Materials Co., Ltd.* v. *United States,* Court No. 18–00089, dated January 27, 2020 (*Remand Results*).

[5] *See Jiangsu Zhongji Lamination Materials Co., Ltd.* v. *United States,* Court No. 18–00089, Slip Op. 20–39 (CIT March 24, 2020).

[6] *See Timken Co.* v. *United States,* 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

[7] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Cash Deposit Requirements

Because Zhongji and all other companies do not have superseding cash deposit rates, *i.e.,* there have been no final results published in subsequent administrative reviews for Zhongji and all other companies, Commerce will issue revised cash deposit instructions to Customs and Border Protection.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c)(1) and (e), 705(c)(1)(B), and 777(i)(1) of the Act.

Dated: July 30, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–17167 Filed 8–5–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–011]

Crystalline Silicon Photovoltaic Products From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the countervailing duty order on crystalline silicon photovoltaic products (solar products) from the People's Republic of China (China) for the period of review (POR) January 1, 2019 through December 31, 2019, based on the timely withdrawal of the request for review.

DATES: Applicable August 6, 2020.

FOR FURTHER INFORMATION CONTACT: Gene Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3586.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 2020, Commerce published the notice of opportunity to request an administrative review of the order on solar products from China for the POR of January 1, 2019 through December 31, 2019.[1] On February 28, 2020, Commerce received a timely-filed request from Maodi Solar Technology (Dongguan) Co., Ltd. (Moadi), an exporter of subject merchandise, with respect to their entries of subject merchandise during the POR.[2] Pursuant to this request and in accordance with 19 CFR 351.221(c)(1)(i), Commerce published a notice initiating an administrative review solely of Moadi.[3] On April 2, 2020, Moadi withdrew its request for an administrative review.[4]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. As noted above, Moadi withdrew its request for review. No other parties requested an administrative review of the order. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries of solar products from China. Countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice of rescission of administrative review.

Administrative Protective Orders

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 an APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: August 3, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2020–17186 Filed 8–5–20; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 85 FR 5938 (February 3, 2020).

[2] *See* Maodi's Letter, ''Crystalline Silicon Photovoltaic Products From the People's Republic of China—Request for Administrative Review,'' dated February 28, 2020.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 19730, 19741 (April 8, 2020).

[4] *See* Moadi's Letter, ''Crystalline Silicon Photovoltaic Products From the People's Republic of China—Withdrawal of Request for Administrative Review,'' dated April 2, 2020.

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping duty (AD) and countervailing duty (CVD) orders and findings with June anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable August 6, 2020.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various AD and CVD orders and findings with June anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *https://access.trade.gov* in accordance

with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act, the following guidelines regarding collapsing of companies for purposes of respondent selection will apply. In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this AD proceeding (*e.g.,* investigation, administrative review, new shipper review, or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general, each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of a particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[2] Section 773(e) of the Act states 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 initial responses to section D of the questionnaire.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *https://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* Trade Preferences Extension Act of 2015, Pub. L. 114–27, 129 Stat. 362 (2015).

''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[4] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Application will be available on Commerce's website at *https://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Application, refer to the instructions contained in the application. Separate Rate Applications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a Separate Rate Application or Certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following AD and CVD orders and findings. We intend to issue the final results of these reviews not later than June 30, 2021.

[3] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, etc.) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[4] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

[5] Commerce is only reviewing entries that were produced, but not exported, by Goodluck India Limited (Goodluck), and/or entries that were exported, but not produced, by Goodluck. Pursuant to a Court of International Trade decision, effective May 10, 2020, Commerce excluded from the antidumping duty order certain cold-drawn mechanical tubing of cargon and allowy steel that was produced and exported by Goodluck. *See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Notice of Court Decision Not in Harmony With Final Determination of Sales at Less Than Fair Value; Notice of Amended Final Determination Pursuant to Court Decision; and Notice of Revocation of Antidumping Duty Order, in Part,* 85 FR 31742 (May 27, 2020).

AD Proceedings	Period to be Reviewed
GERMANY: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel	
A-428-845	6/1/19 - 5/31/20
Benteler Steel/Tube GmbH	
Benteler Distribution International GmbH	
Mubea Fahrwerksfedern GmbH	
Salzgitter Mannesmann Line Pipe GmbH	
Salzgitter Mannesmann Precision GmbH	
INDIA: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel	
A-533-873	6/1/19 - 5/31/20
Goodluck India Limited[5]	
Pennar Industries Limited	
Tube Products of India, Ltd., a unit of Tube Investments of India Limited (collectively 'TPI')	
INDIA: Glycine	
A-533-883	10/31/18 - 5/31/20
Avid Organics Private Limited	
Kumar Industries	
Mulji Mehta Enterprises	
Mulji Mehta Pharma	
Paras Intermediates Private Ltd.	
Rudraa International	
Studio Disrupt	
ITALY: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel	
A-475-838	6/1/19 - 5/31/20
Dalmine S.p.A.	
JAPAN: Carbon and Alloy Seamless Standard Line, and Pressure Pipe (Over 4 ½ Inches)	
A-588-850	6/1/19 - 5/31/20
Kawasaki Steel Corporation	

Nippon Steel Corporation
Okaya & Co., Ltd.
Sumitomo Corporation
Sumitomo Metal Industries, Ltd.

JAPAN: Carbon and Alloy Seamless Standard Line, and Pressure Pipe (Under 4 ½ Inches)
A-588-851 6/1/19 - 5/31/20

Kawasaki Steel Corporation
Nippon Steel Corporation
Okaya & Co., Ltd.
Sumitomo Corporation
Sumitomo Metal Industries, Ltd.

JAPAN: Glycine
A-588-878 10/31/18 - 5/31/20

Nagase & Co., Ltd.
Showa Denko K.K.
Yuki Gosei Kogyo Co., Ltd.

SPAIN: Chlorinated Isocyanurates
A-469-814 6/1/19 - 5/31/20

Ercros, S. A. of Spain

SPAIN: Finished Carbon Steel Flanges
A-469-815 6/1/19 - 5/31/20

Aleaciones De Metales Sinterizados S.A.
Central Y Almacenes
Farina Group Spain
Friedrich Geldbach Gmbh
Grupo Cunado
Transglory S.A.
Tubacero, S.L.
ULMA Forja, S.Coop

SWITZERLAND: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel
A-441-801 6/1/19 - 5/31/20

Benteler Rothrist AG
Mubea Präzisionsstahlrohr AG

THE PEOPLE'S REPUBLIC OF CHINA: Chlorinated Isocyanurates
A-570-898 6/1/19 - 5/31/20

Heze Huayi Chemical Co., Ltd.
Juancheng Kangtai Chemical Co., Ltd.

THE PEOPLE'S REPUBLIC OF CHINA: Tapered Roller Bearing and Parts Thereof, Finished or Unfinished

A-570-601 6/1/19 - 5/31/20

BRTEC Wheel Hub Bearing Co., Ltd.
C&U Group Shanghai Bearing Co., Ltd.
GGB Bearing Technology (Suzhou) Co., Ltd.
Ningbo Xinglun Bearings Import & Export Co., Ltd.
PRECISION COMPONENTS INC.
Shanghai General Bearing Co., Ltd.
Shanghai Tainai Bearing Co., Ltd.
Zhejiang Jingli Bearing Technology Co., Ltd.

CVD Proceedings Period to be Reviewed

INDIA: Glycine
C-533-884 9/4/18 - 12/31/19

Avid Organics Private Limited
Kumar Industries
Mulji Mehta Enterprises
Mulji Mehta Pharma
Paras Intermediates Private Limited
Rudraa International
Studio Disrupt

THE PEOPLE'S REPUBLIC OF CHINA: High Pressure Steel Cylinders
C-570-978 1/1/19 - 12/31/19

Beijing Tianhai Industry Co. Ltd.
Langfang Tianhai High Pressure Container Co., Ltd
Tianjin Tianhai High Pressure Container Co., Ltd.

Suspension Agreements

None

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an AD order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), Commerce, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether AD duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant ''gap'' period of the order (*i.e.,* the period following the expiry of provisional measures and before definitive measures were put into

place), if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (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). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted 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. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the *Final Rule,*[6] available at *https://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[7]

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information using the formats provided at the end of the *Final Rule.*[8] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by Commerce.[9] In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. 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. This policy also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. Please review the *Final Rule,* available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: August 3, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2020–17205 Filed 8–5–20; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[7] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 41363 (July 10, 2020).

[8] *See* section 782(b) of the Act; *see also Final Rule;* and the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[9] *See* 19 CFR 351.302.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA335]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Mukilteo Multimodal Construction Project in Washington State

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the Washington State Department of Transportation (WSDOT) to incidentally harass, by Level A and Level B harassment, marine mammals during pile driving and pile removal activities associated with the Mukilteo Multimodal Construction Project in Washington State.

DATES: This authorization is effective from August 1, 2020 through July 31, 2021.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not

intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On February 18, 2020, NMFS received a request from WSDOT for an IHA to take marine mammals incidental to Mukilteo Multimodal Project in Mukilteo, Washington. The application was deemed adequate and complete on April 13, 2020. WSDOT's request is for take of a small number of 11 species of marine mammals by Level B harassment and Level A harassment. Neither WSDOT nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

This IHA covers one year of a larger project for which WSDOT obtained prior IHAs (82 FR 44164; September 21, 2017; 83 FR 43849; August 28, 2018; 84 FR 39263; August 9, 2019). The larger four-year project involves relocating the Mukilteo Ferry Terminal approximately one-third of a mile east of the existing terminal. This is expected to be the fourth and final year of project activity. WSDOT complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHAs and information regarding their monitoring results may be found in the Potential Effects of Specified Activities on Marine Mammals and their Habitat section.

A **Federal Register** notice for the proposed IHA was published on June 12, 2020 (85 FR 35906).

Description of the Proposed Activity

Overview

The purpose of the Mukilteo Multimodal Project is to provide safe, reliable, and effective service and connection for general-purpose transportation, transit, high occupancy vehicles (HOV), pedestrians, and bicyclists traveling between Island County and the Seattle/Everett metropolitan area and beyond by constructing a new ferry terminal. The current Mukilteo Ferry Terminal has not had significant improvements for almost 30 years and needs key repairs. The existing facility is deficient in a number of aspects, such as safety, multimodal connectivity, capacity, and the ability to support the goals of local and regional long-range transportation and comprehensive plans. The project is intended to:

- Reduce conflicts, congestion, and safety concerns for pedestrians, bicyclists, and motorists by improving local traffic and safety at the terminal and the surrounding area that serves these transportation needs.
- Provide a terminal and supporting facilities with the infrastructure and operating characteristics needed to improve the safety, security, quality, reliability, efficiency, and effectiveness of multimodal transportation.
- Accommodate future demand projected for transit, HOV, pedestrian, bicycle, and general-purpose traffic.

The proposed Mukilteo Multimodal Project would involve in-water vibratory pile driving and vibratory pile removal. Details of the proposed construction project are provided below.

Dates and Duration

Due to NMFS and the U.S. Fish and Wildlife Service (USFWS) in-water work timing restrictions to protect Endangered Species Act (ESA)-listed salmonids, planned WSDOT in-water construction is limited each year to July 15 through February 15. For this project, in-water construction is planned to take place between August 1, 2020 and February 15, 2021. The total worst-case time for pile installation and removal is 54 days (Table 1).

Specific Geographic Region

The Mukilteo Ferry Terminal is located in the City of Mukilteo, Snohomish County, Washington. The terminal is located in Township 28 North, Range 4 East, Section 3, in Possession Sound. The new terminal will be approximately 1,700 ft (518 m) east of the existing terminal in Township 28N, Range 4E, Section 33 (Figure 1). Land use in the Mukilteo area is a mix of residential, commercial, industrial, and open space and/or undeveloped lands.

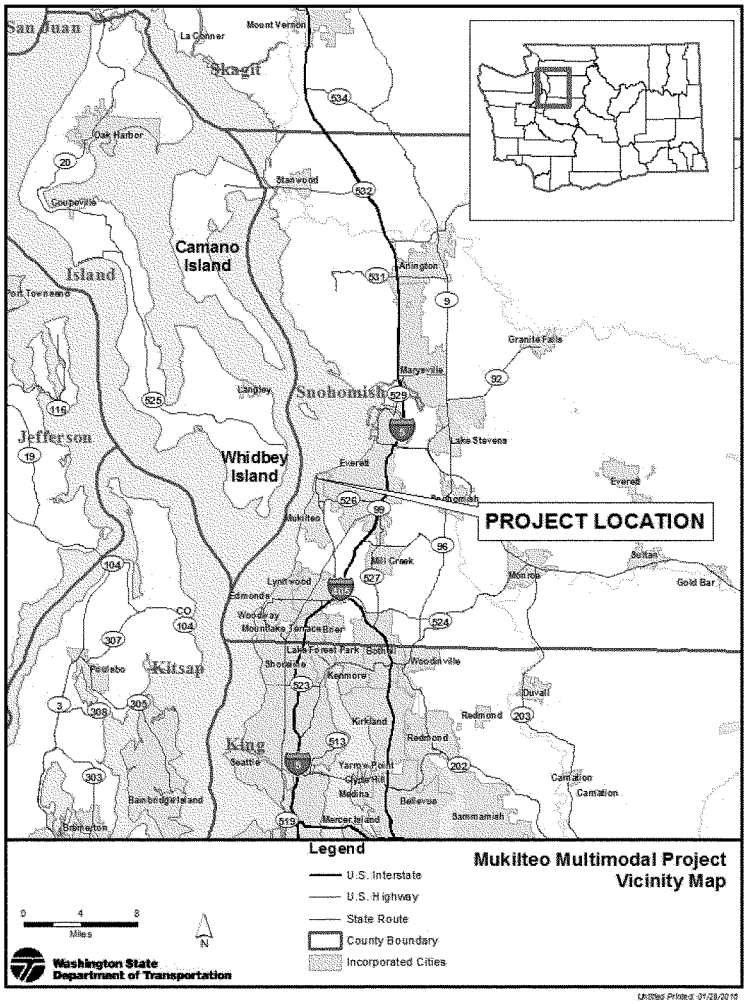

Figure 1 -- Location of Mukilteo Ferry Terminal

Detailed Description of Specific Activity

The proposed project has two activities involving noise production that may impact marine mammals: Vibratory pile removal and vibratory pile driving.

(1) Temporary Pile Removal

Sixty-nine temporary 24 inch steel piles installed to support work platforms will be removed with a vibratory hammer.

(2) Floating Dolphin Piling

The floating dolphin will be moved from the current terminal to the new terminal. A combination of anchors (four) and piles (four) will be used to secure the dolphin anchor chains to the sea floor. Four 30 inch steel piles will be installed with a vibratory hammer.

(3) Existing Terminal Removal

The existing terminal will be removed once the new terminal is complete. The existing terminal comprises 8,120 feet^2 (ft^2) (754 meters^2 (m^2) of overwater cover and contains approximately 290 12-inch diameter timber piles. All timber piles may be removed with a vibratory hammer, a clamshell, or pulled directly. Use of the vibratory hammer for timber pile removal is not the preferred method and it is likely that most piles will be removed via direct pull. However, for purposes of analysis we assume that all timber piles will be removed using the vibratory hammer.

Details of pile driving activities are provided below and are summarized in Table 1.

- Vibratory removal of 12-inch timber piles would take 15 minutes per pile, 10 piles per day, with 290 piles removed over 29 days.
- Vibratory removal of 24-inch steel pipe piles would take 15 minutes per pile, 3 piles removed per day, with 69 piles removed in 23 days.
- Vibratory driving of 30-inch steel pipe piles would take 30 minutes per pile, 2 piles per day, with 4 piles installed in 2 days.

Pile driving or removal will occur in different days. There is no concurrent pile driving or pile removing.

TABLE 1—SUMMARY OF IN-WATER PILE DRIVING DURATIONS

Method	Pile size (inch)	# piles	Minutes per pile	Piles per day	Days
Vibratory Removal	12 (timber)	290	15	10	29
Vibratory Removal	24 (steel)	69	15	3	23

TABLE 1—SUMMARY OF IN-WATER PILE DRIVING DURATIONS—Continued

Method	Pile size (inch)	# piles	Minutes per pile	Piles per day	Days
Vibratory Drive	30 (steel)	4	30	2	2
Total					54

Comments and Responses

A notice of NMFS' proposal to issue an IHA was published in the **Federal Register** on June 12, 2020 (85 FR 35906). During the 30-day public comment period, NMFS received a comment letter from the Marine Mammal Commission (Commission). Specific comments and responses are provided below.

Comment 1: The Commission recommends that NMFS (1) include the revised Level B harassment zone of 1.6 kilometer (km) in the **Federal Register** announcing NMFS' decision regarding the IHA request and in Tables 2 and 3 of the final authorization, (2) include the revised densities from Navy (2019) in the final notice, (3) revise the Level B harassment takes to 1,322 for harbor porpoises, 35 for Dall's porpoises, 4,989 for harbor seals, 2,430 for California sea lions, and 324 for Steller sea lions in the final notice and in Table 1 of the IHA, and (4) ensure WSDOT is aware of the correct extents of the Level A harassment zones.

Response: NMFS reviewed the WSDOT's noise level measurement report and agrees that the Level B harassment distance should be established at 1.6 km instead of 1.13 km. NMFS updated the Level B harassment distance in its final IHA. NMFS also revised the marine mammal density information based on the Navy's 2019 database. Therefore, marine mammal takes were re-calculated accordingly using the latest density information or based on WSDOT prior year sighting records. Based on the revision, NMFS agrees to revise the harbor porpoise take estimates to 1,322 and Dall's porpoise to 35 animals, based on updated density information and group size. However, NMFS does not agree with the Commission to change the numbers of Level B harassment takes of harbor seal, California sea lion, and Steller sea lion. NMFS worked with WSDOT and conservatively used the highest daily observation of these species during prior phases of the Mukilteo Multimodal Project. Takes of these species were calculated using the daily high observation multiplied by the total number of pile driving days (54 days), which yield total Level B harassment numbers of 3,888 for harbor seals, 2,620 for California sea lions, and 108 for Steller sea lions for the Mukilteo Multimodal Project.

Finally, WSDOT is aware of the referenced error for the Level A harassment zones that was provided in its draft marine mammal monitoring plan. WSDOT has since fixed the error and provided an updated marine mammal monitoring plan.

Comment 2: The Commission recommends that NMFS (1) reinforce the fact that WSDOT must comply with the various reporting requirements in the final authorization, including conditions 6(a)(vii) and (xii), (2) ensure that WSDOT extrapolates the observed numbers of takes to the extents of the Level B harassment zones when estimating the total numbers of takes and by considering both the observation platform of each protected species observer (PSO) and the species for the 2020 final authorization, and (3) require WSDOT to submit a revised monitoring report for its 2019–2020 activities, consistent with conditions 6(a)(ix) and (xi) in the 2019 final authorization and the recommendations herein.

Response: Conditions 6(a)(vii) and 6(a)(xii) in the draft IHA states:

6(a)(vii) Distances and bearings of each marine mammal observed to the pile being driven or removed for each sighting (if pile driving or removal was occurring at time of sighting).

6(a)(xii) An extrapolation of the estimated takes by Level B harassment based on the number of observed exposures within the Level B harassment zone and the percentage of the Level B harassment zone that was not visible.

NMFS is reminding WSDOT that it must comply with condition 6(a)(vii) to include distances and bearing of marine mammals observed during pile driving in its final report, as it appears that this information was not included in its final report for the 2019 season. However, NMFS does not agree with the Commission's recommendation on condition 6(a)(xii) regarding extrapolation of estimated takes by Level B harassment based on the number of observed exposures within the Level B harassment zone and the percentage of the Level B harassment zone that was not visible. Although this condition was included in the draft IHA at the suggestion of the Commission at the time when the proposed IHA was drafted, NMFS later realized that the extrapolation of Level B harassment takes based on simple visual detection of the areas monitored is not scientifically sound for various reasons. Some of these reasons include, (1) visual detection rate vs. distance is a complex function that cannot be simply determined by an ''all or none'' method; distance sampling methods must be used to properly extrapolate marine mammal takes in the area, and (2) marine mammals are not uniformly distributed in small Level B harassment zones. While it is appropriate to use density information as an average to estimate marine mammal abundance in a larger project area, for a much smaller area such as a Level B harassment zone with a radius at approximately 2 to 8 km, extrapolation from sighting without more sophisticated distance sampling methods is not appropriate. Given the small area, the animals sighted could be the only individuals or groups within that area and, therefore, would represent all the animals taken by Level B harassment. Therefore, NMFS has removed condition 6(a)(xii) from the final IHA issued to WSDOT.

Conditions 6(a)(ix) and (xi) in the 2019 IHA states:

6(a)(ix) Distances and bearings of each marine mammal observed to the pile being driven or removed for each sighting (if pile driving or removal was occurring at time of sighting).

6(a)(xi) Number of individuals of each species (differentiated by month as appropriate) detected within the monitoring zone, and estimates of number of marine mammals taken, by species (a correction factor may be applied to total take numbers, as appropriate).

NMFS has requested WSDOT to provide information required in the 2019 IHA.

Comment 3: The Commission states that a requirement to conduct pile driving only in daylight hours is necessary to ensure that WSDOT is effecting the least practicable adverse impact on the species and stocks, particularly Southern Resident killer whales, and recommends that NMFS include in the final authorization the

requirement that WSDOT conduct pile-driving and removal activities during daylight hours only.

Response: WSDOT has indicated that all pile driving and removal activities will be conducted during daylight hours only. NMFS has included this condition in the final IHA issued to WSDOT.

Comment 4: The Commission recommends that NMFS ensure that WSDOT keep a running tally of the total takes, based on observed and extrapolated takes, for Level B harassment consistent with condition 4(h) of the final authorization

Response: We agree that WSDOT must ensure they do not exceed authorized takes but do not concur with the recommendation. NMFS is not responsible for ensuring that WSDOT does not operate in violation of an issued IHA.

Comment 5: Commission recommends that NMFS refrain from issuing renewals for any authorization and instead use its abbreviated **Federal Register** notice process, which is similarly expeditious and fulfills NMFS's intent to maximize efficiencies.

Response: NMFS does not agree with the Commission and, therefore, does not adopt the Commission's recommendation. On July 22, 2020, NMFS provided a detailed explanation of its reasons for (in part) not following the Commission's recommendations regarding renewals, as required by section 202(d) of the MMPA.

Changes From the Proposed IHA to Final IHA

There is no change in the WSDOT's Mukilteo Multimodal construction activities from the **Federal Register** notice for the proposed IHA (85 FR 35906; June 12, 2020). Some of the marine mammal density information was updated based on the latest density information (Navy 2019). Take calculations for these species were revised based on the updated marine mammal density information. After further examining the noise measurements of the Level B harassment distance from vibratory pile removal of 12-inch timber pile, the distance where underwater pile driving noise cannot be detected for all species should be at 1.61 km, not 1.13 km at stated in the proposed IHA. Therefore the Level B harassment distance is changed to 1.61 km, and the ensonified area was updated to 3.9 km^2. Potential Level B harassment takes of marine mammals associated with the new distance were re-calculated. However, these changes in take numbers based on revised density and Level B harassment zone do not change our impact assessment to marine mammals from incidental takes by WSDOT's Mukilteo Multimodal project.

In addition, the final IHA removed condition 6(a)(xii) from the draft IHA, which would require WSDOT to extrapolate Level B harassment takes from visual observation. The reason for the removal is stated in *Response* to *Comment 2.*

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species*).

Table 2 lists all species or stocks for which take is expected and authorized to be taken for this action, and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2019). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for all species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. All managed stocks in this region are assessed in NMFS's U.S Pacific and Alaska SARs (*e.g.,* Carretta *et al.,* 2020; Muto *et al.,* 2020). All values presented in Table 2 are the most recent available at the time of publication and are available in the 2018 SARs (Carretta *et al.,* 2019; Muto *et al.,* 2019) and draft 2019 SARs (available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*).

TABLE 2—MARINE MAMMALS WITH POTENTIAL PRESENCE WITHIN THE PROPOSED PROJECT AREA

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae:						
Gray whale	*Eschrichtius robustus*	Eastern North Pacific	N	26,960 (0.05, 25,849)	801	139
Family Balaenopteridae (rorquals):						
Humpback whale	*Megaptera novaeangliae*	California/Oregon/Washington	Y	2,900 (0.05, 2,784)	16.7	unk
Minke whale	*Balaenoptera acutorostrata*	California/Oregon/Washington	N	636 (0.72, 369)	3.5	1.3
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Killer whale	*Orcinus orca*	Eastern North Pacific Southern Resident.	Y	75 (NA, 75)	0	0
		West coast transient	N	243 (NA, 243)	2.4	0
Bottlenose dolphin	*Tursiops truncatus*	California/Oregon/Washington offshore.	N	1,924 (0.54, 1,255)	11	1.6

TABLE 2—MARINE MAMMALS WITH POTENTIAL PRESENCE WITHIN THE PROPOSED PROJECT AREA—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	Washington inland waters	N	11,233 (0.37, 8,308)	66	7.2
Dall's porpoise	*P. dalli*	California/Oregon/Washington	N	25,750 (0.45, 17,954)	172	0.3
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
California sea lion	*Zalophus californianus*	U.S.	N	257,606 (NA, 233,515)	14,011	321
Steller sea lion	*Eumetopias jubatus*	Eastern U.S.	N	43,201 (NA, 43,201)	2,592	113
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina*	Washington northern inland waters.	N	11,036 [4]	NA	10.6
Northern elephant seal	*Mirounga angustirostris*	California breeding	N	179,000(NA, 81,368)	4,882	8.8

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike).

[4] Harbor seal estimate is based on data that are greater than 8 years old, but this is the best available information for use here.

As indicated above, all 11 species (with 12 managed stocks) in Table 2 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have authorized it, with the exception of the Southern Resident killer whale. Take of Southern Resident killer whale can be avoided by implementing strict monitoring and mitigation measures (see Mitigation and Monitoring and Reporting sections below).

In addition, the sea otter may be found in inland waters of Washington. However, this species is managed by the USFWS and is not considered further in this document.

A detailed description of the marine mammals in the area of the activities is found in the notice of proposed IHA for WSDOT's Season 3 Mukilteo Multimodal construction project (83 FR 30421, June 28, 2018). This information remains valid, as there is no new information available, so we do not repeat it here but provide a summary table with marine mammal species and stock details (Table 2).

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 3.

TABLE 3—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Eleven marine mammal species (seven cetacean and four pinniped (two otariid and two phocid) species) have the reasonable potential to co-occur with the proposed construction activities. Please refer to Table 2. Of the cetacean species that may be present, three are classified as low-frequency cetaceans (*i.e.,* all mysticete species), two are classified as mid-frequency cetaceans (*i.e.,* all delphinid species), and two are classified as high-frequency cetaceans (*i.e.,* porpoise species).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The Estimated Take section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take section, and the Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

The WSDOT's Mukilteo Multimodal construction work using in-water pile driving and pile removal could adversely affect marine mammal species and stocks by exposing them to elevated noise levels in the vicinity of the activity area.

A detailed description on the noise impacts on marine mammals and their habitat is provided in the **Federal Register** notice (85 FR 35906; June 12, 2020) for the proposed IHA, and is not repeated here.

Estimated Take

This section provides an estimate of the number of incidental takes that are authorized through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to vibratory pile driving and pile removal. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* shutting down pile driving or removal activities when a marine mammal is observed to approach the injury zone)—discussed in detail below in Mitigation section, Level A harassment is neither anticipated nor authorized.

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur permanent threshold shift (PTS) of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

WSDOT's Mukilteo Ferry Terminal Year 4 construction project includes the use vibratory pile driving and pile removal, and therefore the 120 dB re 1 μPa (rms) is applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). WSDOT's Mukilteo Ferry Terminal Year 4 construction project includes the use non-impulsive (vibratory pile driving) sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa²s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

Source Levels

The project includes vibratory pile removal of 12-inch timber piles and 24-inch steel piles, and vibratory pile driving of 30-inch steel piles. Near source levels (defined as noise level at 10-m from the pile) of these pile driving and removal activities are all based on prior measurements conducted by WSDOT. A summary of the 10-m near source levels of the pile driving and removal activities is provided in Table 5, along with references.

TABLE 5—NEAR SOURCE NOISE LEVELS AT 10-m FROM THE PILE FOR VARIOUS PILE DRIVING AND REMOVAL AT MUKILTEO FERRY TERMINAL YEAR 4 PROJECT

Activity/pile size	Source level (dB RMS SPL at 10m)	Literature source
Vibratory removal of 12-inch timber pile	153	WSDOT Port Townsend measurement (2011).
Vibratory removal of 24-inch steel pile	166	WSDOT Manette Bridge measurement (2010).
Vibratory driving of 30-inch steel pile	170	WSDOT Manette Bridge measurement (2010).

Level A Harassment Distances and Areas

Distances to Level A harassment thresholds were estimated using the NMFS User Spreadsheet. When the NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of Level A harassment take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources such as vibratory pile driving and pile removal, NMFS User Spreadsheet predicts the distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would incur PTS.

A summary of the calculated Level A harassment distances and areas is presented in Table 6.

Level B Harassment Distances and Areas

Level B harassment distances from all pile driving and pile removal activities were based on in situ measurements conducted by WSDOT on the same or similar piles at Mukilteo Ferry Terminal in the early phases of this project. Specifically, the following measurement data were used.

WSDOT has conducted in situ measurements of the Level B harassment zones from vibratory removal of 12-inch diameter timber piles, and vibratory driving of 30-inch diameter steel piles at the Mukilteo Ferry Terminal. For removal of 12-inch timber piles, the measurement results show that underwater noise cannot be detected at a distance of 1.6 km/1 mile (Laughlin 2015). For driving of 30-inch steel piles, the sound source verification (SSV) results show that underwater noise cannot be detected at a distance of 7.9 km/4.9 miles) (Laughlin 2017).

No far distance measurement for 24-inch piles has been conducted at the Mukilteo project site to establish the Level B harassment zone. For 24-inch piles, the practical spreading model results in a Level B harassment distance of 10 km/6.2 miles for the source level of 166 dB_{rms} (root-mean-square decibel level). However, given that this source level is less than the 170 dB_{rms} source level for the 30-inch piles, it is assumed that the size of Level B harassment zone for 24-inch pile removal will be the

same as for the driving of 30-inch piles (7.9 km/4.9 miles).

The Level B harassment areas were estimated by WSDOT using geographic information system (GIS) tools to eliminate land masses and other obstacles that block sound propagation.

A summary of the measured Level B harassment distances (and assumed Level B harassment distance for 30-in steel piles) and associated areas, and modeled Level A harassment distances, is presented in Table 6.

TABLE 6—LEVEL A AND LEVEL B HARASSMENT DISTANCES AND AREAS

Source	Level A harassment distance (m)/area (km²)					Level B harassment distance (m)/area (km²)
	LF cetaceans	MF cetaceans	HF cetaceans	Phocids	Otariids	
Vibratory removal 12 inch timber pile	3.7/0.0	0.3/0.0	5.4/0.0	2.2/0.0	0.2/0.0	1,610/3.9
Vibratory removal 24 inch steel pile	12.1/0.0	1.1/0.0	18.0/0.0	7.4/0.0	0.5/0.0	7,900/66
Vibratory drive 30 inch steel pile	27.2/0.0	2.4/0.0	40.2/0.0	16.5/0.0	1.2/0.0	7,900/66

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

Marine mammal occurrence are based on the U.S. Navy Marine Species Density Database (U.S. Navy, 2019) and on WSDOT marine mammal monitoring efforts during prior years of construction work at Mukilteo Ferry Terminal. A summary of the marine mammal density is provided in Table 7.

TABLE 7—MARINE MAMMAL DENSITY IN THE WSDOT MUKILTEO MULTIMODAL PROJECT AREA

Marine mammals	Density (animals/km²)
Gray whale	0.0048
Humpback whale	0.00074
Minke whale	0.00045
Killer whale (West Coast transient)	0.005141
Bottlenose dolphin	NA
Harbor porpoise	0.75
Dall's porpoise	0.00045
Harbor seal	2.83
Northern elephant seal	0.0000
California sea lion	0.2211
Steller sea lion	0.0478

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

For most species, take numbers were calculated using the information aggregated in the Navy density database (U.S. Navy, 2019). Where a low to high range of densities is given for a species, the more conservative high density was used. In these cases, take numbers were calculated as:

Total Take = marine mammal density × ensonified area × pile driving days

For species with no density data (*e.g.,* bottlenose dolphin) or species with very low density but observations were made at the project location which may indicate more animals could be present (*e.g.,* humpback whale, West Coast transient killer whale, and northern elephant seal), adjustments were made to estimate the take numbers. Specific adjustments for calculating take numbers for these species are provided below.

- Northern elephant seal—During the Mukilteo project, individuals have been observed on two occasions. Observations have been of single individuals, not groups. It is assumed that one individual may be present in the Level B harassment zone once a month during the in-water work window (7 months), or seven incidents of take.
- Humpback whale—During the Mukilteo project, individuals have been observed on two occasions. Observations have been of single individuals, not groups. It is assumed that one individual may be present in the Level B harassment zone once a month during the in-water work window (7 months), or seven incidents of take.
- West Coast transient killer whale—take is based on maximum group size observed during the project. Groups of 8 individuals have been observed on two occasions. It is assumed that one group of eight animals may be present in the Level B harassment zone once a month during the in-water work window (7 months), or 56 incidents of take.
- Bottlenose dolphin—The bottlenose dolphin take estimate is based on sightings data from Cascadia Research Collective. Between September 2017 and March 2018, a group of up to seven individuals was sighted in South Puget Sound (EPS, 2018). It is assumed that this group is still present in the area. Given how rare bottlenose dolphins are in the area, it is unlikely they would be present on a daily basis. Instead it is assumed that one group size of seven animals may be present in the Level B harassment zone once a month during the in-water work window (7 months), or 49 incidents of take.
- Dall's porpoise—No Dall's porpoise were observed during previous WSDOT marine mammal monitoring. However, they are known to occur in the inland waters of Puget Sound in the project area. Take number of this species is assessed by assuming taking of one group per month with an average group size of five animals for 7 months. Thus the total Level B harassment take of Dall's porpoise is estimated to be 35 animals.
- Harbor seal—The harbor seal take estimate is based on WSDOT marine mammal observations in prior years at Mukilteo. For the Mukilteo Project from August 2015 to January 2020, there have been 134 days of monitoring and 3,130 harbor seals observed, an average of 24/day. From September 2017 to February 2018, WSDOT conducted marine mammal monitoring during Year Two of the Mukilteo Multimodal Project. During 51 days of monitoring, 1,703 harbor seals were observed within the Level B harassment zones, with a one-day high of 72 individuals on October 24, 2017 (WSDOT 2018). The daily high number of 72 animals per day was used to calculate potential takes during the 54-day project season, which yields a total of 3,888 Level B harassment takes.
- California sea lion—For the Mukilteo Project from August 2015 to January 2020, there have been 134 days of monitoring and 1,716 California sea

lions observed, an average of 13 observed per day. From August to November 2015, WSF conducted marine mammal monitoring during tank farm pier removal at the Mukilteo Multimodal Project. During 51 days of monitoring, 345 California sea lions were observed within the Level B harassment zone, with a one-day high of 30 individuals on October 22, 2015 (WSDOT 2016). The highest number of 30 animals per day was used to calculate potential takes during the 54-day project season, which yields a total of 1,620 Level B harassment takes.

• Steller sea lion—For the Mukilteo Project from August 2015 to January 2020, there have been 134 days of monitoring and 26 Steller sea lions observed, an average of 0.20 observed per day. From October 2019 to January 2020, WSF conducted marine mammal monitoring during Year Three of the Mukilteo Multimodal Project (which is still in construction). During 32 days of monitoring, 18 Steller sea lions were observed within the ZOIs, with a one-day high of two individuals on October 21, 2019 (WSDOT 2020). The highest number of two animals per day was used to calculate potential takes during the 54-day project season, which yields a total of 108 Level B harassment takes.

A summary of estimated marine mammal takes is listed in Table 8.

TABLE 8—ESTIMATED NUMBERS OF MARINE MAMMALS THAT MAY BE EXPOSED TO RECEIVED NOISE LEVELS THAT CAUSE LEVEL B HARASSMENT

Marine mammals	Estimated Level B harassment	Abundance	Percentage (%)
Gray whale	9	26,906	0
Humpback whale	7	2,900	0
Minke whale	3	636	0
Killer whale (West Coast transient)	56	243	23
Bottlenose dolphin	49	1924	3
Harbor porpoise	1,322	11,233	12
Dall's porpoise	35	25,750	0
Harbor seal	3,888	11,036	35
Northern elephant seal	7	179,000	0
California sea lion	1,620	257,606	1
Steller sea lion	108	43,201	0

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Time Restriction

Work would occur only during daylight hours, when visual monitoring of marine mammals can be conducted. In addition, all in-water construction will be limited to the period between August 1, 2020, and February 15, 2021.

Establishing and Monitoring Level A, Level B Harassment Zones, and Exclusion Zones

Before the commencement of in-water construction activities, which include vibratory pile driving and pile removal, WSDOT shall establish Level A harassment zones where received underwater SPLs or SEL_{cum} (cumulative sound exposure level) could cause PTS.

WSDOT shall also establish Level B harassment zones where received underwater SPLs are higher than 120 dB_{rms} re 1 μPa for continuous noise sources (vibratory pile driving and pile removal).

WSDOT shall establish a 50 m exclusion zone for all in-water pile driving for cetaceans except Southern Resident killer whale and a 20 m exclusion zone for all in-water pile driving for pinnipeds. These zones encompass all estimated Level A harassment zones.

WSDOT shall establish exclusion zones for Southern Resident killer whale and all marine mammals for which takes are not authorized at the Level B harassment distances. Specifically, for vibratory pile removal of 12-inch timber piles, a 1.6 km exclusion zone shall be established. For vibratory pile removal of 24-inch steel piles and vibratory pile driving of 30-inch steel piles, a 7.9 km exclusion zone shall be established.

A summary of exclusion zones is provided in Table 9.

TABLE 9—EXCLUSION ZONES (m) FOR VARIOUS MARINE MAMMALS

Activities	Cetaceans except SRKW *	Pinnipeds	SRKW
Vibratory pile removal, 12-inch timber pile	50	20	1,600
Vibratory pile removal, 24-inch steel pile or vibratory pile driving, 30-inch steel pile	50	20	7,900

* SRKW = Southern Resident killer whale.

NMFS-approved PSOs shall conduct an initial survey of the exclusion zones to ensure that no marine mammals are seen within the zones beginning 30 minutes before pile driving and pile removal of a pile segment begins. If marine mammals are found within the exclusion zone, pile driving of the segment would be delayed until they move out of the area. If a marine mammal is seen above water and then dives below, the contractor would wait 15 minutes. If no marine mammals are seen by the observer in that time it can be assumed that the animal has moved beyond the exclusion zone.

If pile driving of a segment ceases for 30 minutes or more and a marine mammal is sighted within the designated exclusion zone prior to commencement of pile driving, the observer(s) must notify the pile driving operator (or other authorized individual) immediately and continue to monitor the exclusion zone. Operations may not resume until the marine mammal has exited the exclusion zone or 15 minutes have elapsed since the last sighting.

Shutdown Measures

WSDOT shall implement shutdown measures if a marine mammal is detected within or entering an exclusion zone listed in Table 9.

WSDOT shall also implement shutdown measures if Southern Resident killer whales are sighted within the vicinity of the project area and are approaching the Level B harassment zone during in-water construction activities.

If a killer whale approaches the Level B harassment zone during pile driving or removal, and it is unknown whether it is a Southern Resident killer whale or a transient killer whale, it shall be assumed to be a Southern Resident killer whale and WSDOT shall implement the shutdown measure.

If a Southern Resident killer whale or an unidentified killer whale enters the Level B harassment zone undetected, in-water pile driving or pile removal shall be suspended until the whale exits the Level B harassment zone, or 15 minutes have elapsed with no sighting of the animal, to avoid further Level B harassment.

Further, WSDOT shall implement shutdown measures if the number of authorized takes for any particular species reaches the limit under the IHA and if such marine mammals are sighted within the vicinity of the project area and are approaching the Level B harassment zone during in-water construction activities.

Coordination With Local Marine Mammal Research Network

Prior to the start of pile driving for the day, the Orca Network and/or Center for Whale Research will be contacted by WSDOT to find out the location of the nearest marine mammal sightings. The Local Marine Mammal Research Network consists of a list of over 600 (and growing) residents, scientists, and government agency personnel in the U.S. and Canada. Sightings are called or emailed into the Orca Network and immediately distributed to other sighting networks including: The NMFS Northwest Fisheries Science Center, the Center for Whale Research, Cascadia Research, the Whale Museum Hotline and the British Columbia Sightings Network.

Sightings information collected by the Orca Network includes detection by hydrophone. The SeaSound Remote Sensing Network is a system of interconnected hydrophones installed in the marine environment of Haro Strait (west side of San Juan Island) to study orca communication, in-water noise, bottom fish ecology and local climatic conditions. A hydrophone at the Port Townsend Marine Science Center measures average in-water sound levels and automatically detects unusual sounds. These passive acoustic devices allow researchers to hear when different marine mammals come into the region. This acoustic network, combined with the volunteer (incidental) visual sighting network allows researchers to document presence and location of various marine mammal species.

Based on our evaluation of the applicant's proposed measures, NMFS has determined that the prescribed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual

marine mammals; or (2) populations, species, or stocks.

• Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).

• Mitigation and monitoring effectiveness.

Monitoring Measures

WSDOT shall employ NMFS-approved PSOs to conduct marine mammal monitoring for its Mukilteo Multimodal Project. The PSOs will observe and collect data on marine mammals in and around the project area for 30 minutes before, during, and for 30 minutes after all pile removal and pile installation work. NMFS-approved PSOs shall meet the following requirements:

1. Independent observers (*i.e.,* not construction personnel) are required;

2. At least one observer must have prior experience working as an observer;

3. Other observers may substitute education (undergraduate degree in biological science or related field) or training for experience;

4. Where a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer; and

5. NMFS will require submission and approval of observer Curriculum vitaes.

Monitoring of marine mammals around the construction site shall be conducted using high-quality binoculars (*e.g.,* Zeiss, 10 x 42 power). Due to the different sizes of Level B harassment distances from different pile sizes, several different Level B harassment zones and different monitoring protocols corresponding to a specific pile size will be established.

• During 12-inch vibratory timber pile removal, two land-based PSOs will monitor from the lighthouse and the new ferry terminal observation deck.

• During 24- and 30-inch steel vibratory driving/removal, three land-based and one ferry-based PSO will monitor the zones.

Locations of the land-based PSOs and routes of monitoring vessels are shown in WSDOT's Marine Mammal Monitoring Plan, which is available online at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.*

To verify the required monitoring distance, the exclusion zones and zones of influence will be determined by using a range finder or hand-held global positioning system device.

Reporting Measures

WSDOT is required to submit a draft report on all marine mammal monitoring conducted under the IHA (if issued) within 90 calendar days of the completion of the project. A final report shall be prepared and submitted within 30 days following resolution of comments on the draft report from NMFS.

The marine mammal report must contain the informational elements described in the Marine Mammal Monitoring Plan, dated February 18, 2020, including, but not limited to:

1. Dates and times (begin and end) of all marine mammal monitoring.

2. Construction activities occurring during each daily observation period, including how many and what type of piles were driven or removed.

3. Weather parameters and water conditions during each monitoring period (*e.g.,* wind speed, percent cover, visibility, sea state).

4. The number of marine mammals observed, by species, relative to the pile location and if pile driving or removal was occurring at time of sighting.

5. Age and sex class, if possible, of all marine mammals observed.

6. PSO locations during marine mammal monitoring.

7. Distances and bearings of each marine mammal observed to the pile being driven or removed for each sighting (if pile driving or removal was occurring at time of sighting).

8. Description of any marine mammal behavior patterns during observation, including direction of travel and estimated time spent within the Level B harassment zones while the source was active.

9. Number of individuals of each species (differentiated by month as appropriate) detected within the monitoring zone, and estimates of number of marine mammals taken, by species (a correction factor may be applied to total take numbers, as appropriate).

10. Detailed information about any implementation of any mitigation triggered (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting behavior of the animal, if any.

11. Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals.

12. Submit all PSO datasheets and/or raw sighting data (in a separate file from the Final Report referenced immediately above).

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, WSDOT shall report the incident to the Office of Protected Resources (301–427–8401), NMFS and to the West Coast Region (WCR) regional stranding coordinator (1–866–767–6114) as soon as feasible. If the death or injury was clearly caused by the specified activity, WSDOT must immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHA. WSDOT must not resume their activities until notified by NMFS.

The report must include the following information:

1. Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

2. Species identification (if known) or description of the animal(s) involved;

3. Condition of the animal(s) (including carcass condition if the animal is dead);

4. Observed behaviors of the animal(s), if alive;

5. If available, photographs or video footage of the animal(s); and

6. General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are

incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, this introductory discussion of our analyses applies to all the species listed in Table 9, given that the anticipated effects of WSDOT's Mukilteo Multimodal Project activities involving pile driving and pile removal on marine mammals are expected to be relatively similar in nature. There is no information about the nature or severity of the impacts, or the size, status, or structure of any species or stock that would lead to a different analysis by species for this activity, or else species-specific factors would be identified and analyzed.

Marine mammal takes that are anticipated and authorized are expected to be limited to short-term Level B harassment (behavioral and temporary threshold shift (TTS)) only. Marine mammals present in the vicinity of the action area and taken by Level B harassment would most likely show overt brief disturbance (startle reaction) and avoidance of the area from elevated noise levels during pile driving and pile removal and the implosion noise. These behavioral distances are not expected to affect marine mammals' growth, survival, and reproduction due to the limited geographic area that would be affected in comparison to the much larger habitat for marine mammals in the Puget Sound. A few marine mammals could experience TTS if they occur within the Level B harassment zones. However, as discussed earlier in this document, TTS is a temporary loss of hearing sensitivity when exposed to loud sound, and the hearing threshold is expected to recover completely within minutes to hours. Therefore, it is not considered an injury.

Portions of the SRKW range is within the proposed action area. In addition, the entire Puget Sound is designated as the SRKW critical habitat under the ESA. However, WSDOT would be required to implement strict mitigation measures to suspend pile driving or pile removal activities when this stock is detected in the vicinity of the project area. We anticipate that take of SRKW would be avoided. There are no other known important areas for other marine mammals, such as feeding or pupping, areas.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat, as analyzed in detail in the Potential Effects of Specified Activities on Marine Mammals and their Habitat section. There is no other ESA designated critical habitat in the vicinity of the Mukilteo Multimodal Project area. The project activities would not permanently modify existing marine mammal habitat. The activities may kill some fish and cause other fish to leave the area temporarily, thus impacting marine mammals' foraging opportunities in a limited portion of the foraging range. However, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences. Therefore, given the consideration of potential impacts to marine mammal prey species and their physical environment, WSDOT's proposed construction activity at the Mukilteo Ferry Terminal would not adversely affect marine mammal habitat.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- Injury—no marine mammal would be taken by Level A harassment in the form of either physical injury or PTS;
- Behavioral disturbance—11 species/stocks of marine mammals would experience behavioral disturbance and TTS from the WSDOT's Mukilteo Ferry Terminal construction. However, as discussed earlier, the area to be affected is small and the duration of the project is short. In addition, the nature of the take would involve mild behavioral modification; and
- Although portion of the SWKR critical habitat is within the project area, strict mitigation measures such as implementing shutdown measures and suspending pile driving are expected to avoid take of SRKW, and impacts to prey species and the habitat itself are expected to be minimal. No other important habitat for marine mammals exist in the vicinity of the project area.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The estimated takes are below 24 percent of the population for all marine mammals except harbor seal (Table 7). While the estimated takes of harbor seal would be 35 percent of its population if all takes occurred to unique individuals, it is very likely that a single individual would be taken multiple times on different days. Therefore, the actual unique take of individual animals among the total population would be well under one-third of the population size.

Based on the analysis contained herein of the proposed activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the WCR Protected Resources Division Office, whenever we propose

to authorize take for endangered or threatened species.

The only species listed under the ESA with the potential to be present in the action area is the Mexico DPS of humpback whales. The effects of this Federal action were adequately analyzed in NMFS' Biological Opinion for the Mukilteo Multimodal Project, Snohomish, Washington, dated August 1, 2017, which concluded that issuance of an IHA would not jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify any designated critical habitat. NMFS WCR has confirmed the Incidental Take Statement (ITS) issued in 2017 is applicable for this IHA. That ITS authorizes the take of seven humpback whales from the Mexico DPS.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Authorization

As a result of these determinations, NMFS has issued an IHA to the WSDOT to conduct Mukilteo Multimodal Project Year 4 in Washington State, between August 1, 2020, and July 31, 2021, provided the previously prescribed mitigation, monitoring, and reporting requirements are incorporated.

Dated: August 3, 2020.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–17212 Filed 8–5–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Public Comment for a Draft NOAA Science and Technology Strategy: Citizen Science

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of public comment.

SUMMARY: This notice announces the availability for public comment of the NOAA *Citizen Science draft strategy.* This strategy is intended to dramatically expand our application of this emerging science and technology focus area by improving the efficiency, effectiveness and coordination of its development and usage across the agency.

DATES: Comments must be received by September 8, 2020.

ADDRESSES: A copy of the draft strategy may be downloaded or viewed on the internet at: *https://nrc.noaa.gov/NOAA-Science-Technology-Focus-Areas.* You may submit public comments via email to *oar.rc.execsec@noaa.gov.* Please include ''Public Comment on Draft NOAA Citizen Science Strategy'' in the subject line of the message. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NOAA will accept anonymous comments.

FOR FURTHER INFORMATION CONTACT: John McLaughlin, NOAA Office of Education (Phone: 202–253–1977, Email: *john.mclaughlin@noaa.gov*), or Laura Oremland, NOAA Fisheries Office of Science and Technology (Phone: 301–427–8162, Email: *laura.oremland@noaa.gov*).

SUPPLEMENTARY INFORMATION: Volunteer observations have played a role in informing our Nation's prediction and management of weather, oceans and coasts for over a century. New and emerging technologies are expanding ways that these volunteers can participate. NOAA is well positioned to leverage and contribute to this growth. Citizen science was recently named a Science and Technology Focus Area for the agency to ensure robust agency-wide coordination and strong institutional support from NOAA senior leadership to guide efforts in this area.

This draft strategy is designed to provide a path for NOAA to fully leverage the power of public participation in support of agency mission areas. It was created to complement NOAA's other *Science and Technology Focus Areas* (also available at: *https://nrc.noaa.gov/NOAA-Science-Technology-Focus-Areas*)—Artificial Intelligence, Cloud Computing, Data, 'Omics, and Unmanned Systems—and help the U.S. continue to lead in developing innovative, cost-effective and collaborative solutions to global environmental and technology issues.

After completion of this strategy, NOAA will develop a corresponding Strategic Implementation Plan (or ''Roadmap'') that defines detailed action items, deadlines, and responsibilities. In the meantime, citizen science is already working with the other NOAA Science and Technology focus areas to help improve performance in our economically impactful missions and setting the course to strengthen our renowned environmental science and technology leadership for the coming decades.

Dated: July 28, 2020.

David Holst,

Director Chief Financial Officer/CAO, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2020–16895 Filed 8–5–20; 8:45 am]

BILLING CODE 3510–KD–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0112]

Agency Information Collection Activities; Proposed Collection; Comment Request; Contests, Challenges, and Awards

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC or Commission) requests comments on a proposed extension of approval of a generic collection of information for CPSC-sponsored contests, challenges, and awards. The Office of Management and Budget (OMB) previously approved the collection of information under control number 3041–0151. OMB's most recent extension of approval will expire on November 30, 2020. The Commission will consider all comments received in response to this notice before requesting an extension of this collection of information from the Office of Management and Budget (OMB).

DATES: Submit written or electronic comments on the collection of information by October 5, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2010–0112, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *https://www.regulations.gov.* Follow the instructions for submitting comments. The CPSC does not accept comments submitted by electronic mail (email), except through *https://www.regulations.gov.* The CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Mail/Hand Delivery/Courier Written Submissions: Submit comments by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7479.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *https://www.regulations.gov.* Do not submit electronically confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for written submissions.

Docket: For access to the docket to read background documents or comments received, go to: *https://www.regulations.gov,* and insert the docket number, CPSC–2010–0112, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7791, or by email to: *cgillham@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved generic collection of information:

Title: Contests, Challenges, and Awards.

OMB Number: 3041–0151.

Type of Review: Renewal of generic collection.

Frequency of Response: On occasion.

Affected Public: Contestants, award nominees, award nominators.

Estimated Number of Respondents: 500 participants annually. In addition, 20 participants may be required to provide additional information upon selection.

Estimated Time per Response: 5 hours/participant. 20 participants may require 2 additional hours each to provide additional information upon selection.

Total Estimated Annual Burden: 2,540 hours (500 participants × 5 hours/participant) + (20 participants × 2 hours/participant).

General Description of Collection: The Commission establishes contests, challenges, and awards to increase the public's knowledge and awareness of safety hazards, such as carbon monoxide poisoning. The Commission also recognizes those individuals, firms, and organizations that work to address issues related to consumer product safety through awards.

Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

- Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
- Whether the estimated burden of the proposed collection of information is accurate;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2020–17156 Filed 8–5–20; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2020–SCC–0128]

Agency Information Collection Activities; Comment Request; CARES Act Maintenance of Effort (MOE)

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is requesting the Office of Management and Budget (OMB) to conduct an emergency review of a new information collection

DATES: Approval by the OMB has been requested by before August 7, 2020. A regular clearance process is also hereby being initiated. Interested persons are invited to submit comments on or before October 5, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2020–SCC–0128. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Tara Ramsey, 202–260–2063.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner;

(3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: CARES Act Maintenance of Effort (MOE).

OMB Control Number: 1810–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local and Tribal Organizations.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 280.

Abstract: This is a request for approval of a new emergency information collection that would solicit from States, Outlying Areas, and State educational agencies (SEAs) maintenance of effort (MOE) data under section 18008 of the CARES Act. Under four programs—the Governor's Emergency Education Relief Fund (GEER Fund, Section 18002) and the Elementary and Secondary School Emergency Relief Fund (ESSER Fund, Section 18003) and two formula grant programs to the Outlying Areas authorized under Section 18001(a)(1), Education Stabilization Fund-State Educational Agencies (ESF-SEA) and Education Stabilization Fund-Governors (ESF-Governor)—States are required to maintain fiscal effort on behalf of elementary, secondary and postsecondary education. Recipients of the resources from the ESSER Fund, the GEER Fund, the ESF-SEA Fund, and the ESF-Governor Fund have signed Certifications and Agreements, in which they agree to abide by the provisions of the CARES Act, including MOE requirements. The Department is requesting an emergency clearance to meet the requirements of the CARES Act and ensure that States and Outlying Areas are meeting the MOE requirement. In the publication of frequently asked questions regarding the Maintenance of Effort requirement, ED issued guidance and a sample form for States and Outlying Areas to submit this statutorily required data.

Additional Information: An emergency clearance approval for the use of the system is described below due to the following conditions. If this collection is not allowed to proceed, the Department will not be able to fulfill the mandates of the CARES Act, and properly monitor that States and Outlying Areas maintain the level of support for elementary and secondary education, and State and Outlying Areas support for higher education in fiscal years 2020 and 2021 as agreed to in the GEER Fund, ESSER Fund and ESF-SEA Fund, and ESF-Governor Fund Certifications and Agreements.

Dated: August 3, 2020.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2020–17157 Filed 8–5–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Rehabilitation Training: Innovative Rehabilitation Training Program

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

ACTION: Notice.

SUMMARY: The U.S. Department of Education (Department) is issuing a notice inviting applications (NIA) for fiscal year (FY) 2020 for the Innovative Rehabilitation Training program, Catalog of Federal Domestic Assistance (CFDA) number 84.263D/E/F. These competitions fund time-limited training projects to develop, refine, implement, evaluate, and disseminate innovative methods of training vocational rehabilitation (VR) personnel and Client Assistance Program (CAP) personnel to support the work of the State VR agencies and the implementation of the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (Rehabilitation Act). In the FY 2020 competitions, the Department is focusing on innovative rehabilitation training in the following areas: CAP (84.263D); assisting and supporting individuals with disabilities pursuing self-employment, business ownership, and telecommuting (84.263E); and field-initiated projects in an area related to VR (84.263F). This notice relates to the approved information collection under OMB control number 1820–0018.

DATES:

Applications Available: August 6, 2020.

Deadline for Transmittal of Applications: September 3, 2020.

Date of Pre-Application Meeting: The Office of Special Education and Rehabilitative Services (OSERS) will post a PowerPoint presentation that provides general information related to RSA's discretionary grant competitions and a PowerPoint presentation specifically related to this Innovative Rehabilitation Training program competition at *https://ncrtm.ed.gov/RSAGrantInfo.aspx.* OSERS will conduct a pre-application meeting specific to this competition via conference call to respond to questions. Information about the pre-application meeting will be available at *https://ncrtm.ed.gov/RSAGrantInfo.aspx* prior to the date of the call. OSERS invites you to send questions to *84.263DEF@ed.gov* in advance of the pre-application meeting. The teleconference information, including the 84.263D/E/F pre-application meeting summary of the questions and answers, will be available at *https://ncrtm.ed.gov/RSAGrantInfo.aspx* within six days after the pre-application meeting.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Cassandra P. Shoffler, U.S. Department of Education, 400 Maryland Avenue SW, Room 5065A, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7827. Email: *84.263DEF@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Innovative Rehabilitation Training program is designed to develop (a) new types of training programs for rehabilitation personnel and to demonstrate the effectiveness of these new types of training programs for rehabilitation personnel in providing rehabilitation services to individuals with disabilities; (b) new and improved methods of training rehabilitation personnel so that there may be a more effective delivery of rehabilitation services to individuals with disabilities by designated State rehabilitation agencies and designated State rehabilitation units or other public or non-profit rehabilitation service agencies or organizations; and (c) new innovative training programs for VR

professionals and paraprofessionals to have a 21st-century understanding of the evolving labor force and the needs of individuals with disabilities so they can more effectively provide VR services to individuals with disabilities. Projects must be awarded and operated in a manner consistent with the nondiscrimination requirements contained in the U.S. Constitution and the Federal civil rights laws.

Priorities: This competition includes three absolute priorities and two competitive preference priorities.

The absolute priorities are from the notice of final priorities for this program (NFP) published elsewhere in this issue of the **Federal Register**. Competitive Preference Priority 1 is from the Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs (Supplemental Priorities) published in the **Federal Register** on March 2, 2018 (83 FR 9096). Competitive Preference Priority 2 is from the Secretary's Final Administrative Priorities for Discretionary Grant Programs (Administrative Priorities) published in the **Federal Register** on March 9, 2020 (85 FR 13640).

Absolute Priorities: For FY 2020, and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet one of these priorities. Applicants must identify the specific absolute priority under which they are applying as part of the competition title on the application cover sheet (SF form 424, line 4). Applicants must submit separate applications if applying under more than one priority.

These priorities are:

Absolute Priority 1—Innovative Rehabilitation Training Program: Client Assistance Program.

A project under this priority must increase the CAP professionals' knowledge about all requirements governing the CAP program and VR services under the Rehabilitation Act, while also increasing the capacity of CAP professionals to inform VR clients and applicants about the expanded opportunities available under the Workforce Innovation and Opportunity Act (WIOA) and provide the assistance and advocacy that the clients and applicants need. The project must enhance CAP professionals' knowledge, skills, and competencies in each of the following required subject areas: (a) CAP responsibilities in section 112 of the Rehabilitation Act and the VR service provision requirements in the Rehabilitation Act, particularly in support of the implementation of key provisions of WIOA; (b) expanded opportunities for quality employment under WIOA and the pertinent provisions regarding unified and combined State plans, common performance measures, and the workforce development system, including pre-employment transition services, work-based learning, apprenticeships, customized employment, career pathways, and postsecondary credentials, including advanced degrees; (c) opportunities and challenges for individuals with the most significant disabilities, students and youth with disabilities, and traditionally underserved populations, including those at the intersection of poverty and disability; (d) program and fiscal management training to promote the effective use of Federal and non-Federal resources under the Rehabilitation Act; and (e) leadership, relationship-building, outreach, and individuals and systems advocacy skills to promote effective interaction by CAP professionals with VR clients and applicants, State VR agencies, State Rehabilitation Councils, and other important stakeholders.

The project must develop a new or substantially improved training program meeting the professional needs and the required knowledge, skills, and competencies of CAP professionals. The CAP training program will consist of established, stand-alone training modules, and ad hoc training activities developed in response to emerging circumstances or trends. Stand-alone training modules may include selected topics that can be incorporated into existing academic degree or short-term VR training programs, for example, to promote greater understanding among VR professionals and paraprofessionals about the CAP program and the individuals that it serves.

The CAP training program will also encompass ongoing technical assistance related to topics addressed in the training modules and ad hoc training activities, including consultation and technical assistance on options for applying existing law, regulations, and RSA-issued guidance to specific factual circumstances that arise in the course of CAP professionals' individual or systems advocacy efforts.

Training delivery methods must encompass: (a) State-of-the-art communication tools and platforms, including an interactive project website, distance learning and convening technologies, social media, and searchable databases; and (b) the latest knowledge translation methods and techniques, including engaging training recipients with different learning styles.

The project must develop an overall training plan specifying the major components (*e.g.,* training modules, ad hoc training activities, and ongoing technical assistance), informational resources (*e.g.,* curricula, materials, searchable databases, communities of practice), and modes of delivery (*e.g.,* in-person, virtual). The training plan must be based on the identified training needs of CAP professionals to effectively carry out the CAP responsibilities under title IV, section 112 of the Rehabilitation Act.

The training modules must be developed by the end of the first year of the project period and piloted, refined, implemented, evaluated, and disseminated in years two, three, four, and five of the project period. The ad hoc training activities and technical assistance will be developed on any ongoing basis in response to circumstances and emerging needs.

A process for continuous feedback, evaluation, and improvement to ensure that the training modules, the ad hoc training activities, and technical assistance are responsive to the needs of CAP professionals throughout years two, three, four, and five must be included. This process may include surveys, success stories, and analyses of selected data elements of the Annual CAP Performance Report (RSA–227).

The training and technical assistance must be of sufficient scope, intensity, and duration for CAP professionals to achieve increased skill, knowledge, and competence in the topic areas.

The applicant must review and incorporate the resources developed by the RSA VR Technical Assistance Centers and Demonstration and Training projects, available at the National Clearinghouse for Rehabilitation Training Materials, and other Federal and nongovernment sources, as appropriate, in developing its training and technical assistance curricula and delivery methods.

Training and technical assistance activities also must be coordinated with the entity providing training and technical assistance to the Protection and Advocacy of Individual Rights program, consistent with section 509 of the Rehabilitation Act.

Absolute Priority 2—Innovative Rehabilitation Training Program: Assisting and Supporting Individuals with Disabilities Pursuing Self-Employment, Business Ownership, and Telecommuting.

A project in the area of assisting and supporting individuals with disabilities pursuing self-employment, business

ownership, and telecommuting must develop a new or substantially improved and, to the extent possible, evidence-based [1] training program, including stand-alone modules and instructional materials to be incorporated into an existing academic degree program for educating VR counselors or other VR professionals and paraprofessionals or into short-term training for VR professionals, or both. The training program or modules must be developed by the end of the first year of the project period and piloted, refined, implemented, evaluated, and disseminated in years two, three, four, and five of the project period. A process for continuous feedback, evaluation, and improvement to ensure the training program or modules are responsive to the needs of the VR professionals and paraprofessionals throughout years two, three, four, and five must be included. This process may include evidence collected from surveys or success stories or other forms of evidence.

The training must be of sufficient scope, intensity, and duration for VR professionals, paraprofessionals, and individuals studying to become VR professionals and paraprofessionals to achieve increased skill, knowledge, and competence in the area of assisting and supporting individuals with disabilities pursuing self-employment, business ownership, and telecommuting.

Absolute Priority 3—Innovative Rehabilitation Training Program: Field Initiated.

A field-initiated project must clearly identify the topic to be addressed and provide sufficient evidence to demonstrate the need for the innovative rehabilitation training in a proposed new topic area or, in areas for which there is existing training, demonstrate that the existing training is not adequately meeting the needs of VR professionals, paraprofessionals, and individuals studying to become VR professionals and paraprofessionals.

The project must develop a new or substantially improved and, to the extent possible, evidence-based [2] training program, including stand-alone modules and instructional materials to be incorporated into an existing academic degree program for educating VR counselors or other VR professionals and VR paraprofessionals, or into short-term training for VR professionals, or both. The training program or modules must be developed by the end of the first year of the project period and piloted, refined, implemented, evaluated, and disseminated in years two, three, four, and five of the project period. A process for continuous feedback, evaluation, and improvement to ensure the training program or modules are responsive to the needs of the VR professionals and paraprofessionals throughout years two, three, four, and five must be included. This process may include surveys or success stories.

The training must be of sufficient scope, intensity, and duration for VR professionals, paraprofessionals, and individuals studying to become VR professionals and paraprofessionals to achieve increased skill, knowledge, and competence in the topic area.

Competitive Preference Priorities: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award an additional three points to an application that meets paragraph (a) of Competitive Preference Priority 1 or an additional five points to an application that meets paragraph (b) of Competitive Preference Priority 1, and an additional two points to an application that meets Competitive Preference Priority 2, for a maximum of seven additional points under the competitive preference priorities.

These priorities are:

Competitive Preference Priority 1—Promoting Innovation and Efficiency, Streamlining Education With an Increased Focus on Improving Student Outcomes, and Providing Increased Value to Students and Taxpayers. (3 or 5 points)

Projects that are designed to demonstrate matching support for the proposed projects:

(a) 50 percent of the total amount of the grant (3 points); or

(b) 100 percent of the total amount of the grant (5 points).

Note: This competitive preference priority match is not mandatory, but if an applicant responds to and meets the criteria outlined in Competitive Preference Priority 1, an additional three or five points will be applied to the application score. Under 34 CFR 387.40, cost sharing of at least 10 percent of the total cost of the project is mandatory of all grantees under the Innovative Rehabilitation Training program. Please see the *Cost Sharing and Matching* section under part III of this notice.

Competitive Preference Priority 2—Applications From New Potential Grantees. (2 points).

(a) Under this priority, an applicant must demonstrate one or more of the following:

(i) The applicant has never received a grant, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, under the Innovative Training program.

(ii) The applicant does not, as of the deadline date for submission of applications, have an active grant, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, under the Innovative Training program.

(iii) The applicant has not had an active discretionary grant under the Innovative Training program, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, in the five years before the deadline date for submission of applications under the program.

(iv) The applicant has not had an active discretionary grant from the Department, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, in the five years before the deadline date for submission of applications under the Innovative Training program.

(v) The applicant has not had an active contract from the Department in the five years before the deadline date for submission of applications under the Innovative Training program.

(b) For the purpose of this priority, a grant or contract is active until the end of the grant's or contract's project or funding period, including any extensions of those periods that extend the grantee's or contractor's authority to obligate funds.

Program Authority: 29 U.S.C. 772.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for

[1] For the purpose of this priority, ''evidence-based'' means the proposed project component is supported, at a minimum, by evidence that demonstrates a rationale (as defined in 34 CFR 77.1), where a key project component included in the project's logic model (as defined in 34 CFR 77.1) is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes (as defined in 34 CFR 77.1).

[2] For the purpose of this priority, ''evidence-based'' means the proposed project component is supported, at a minimum, by evidence that demonstrates a rationale (as defined in 34 CFR 77.1), where a key project component included in the project's logic model (as defined in 34 CFR 77.1) is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes (as defined in 34 CFR 77.1)

Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR parts 385 and 387. (e) The NFP. (f) The Supplemental Priorities. (g) The Administrative Priorities.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $ 1,350,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: $425,000—$450,000.

Maximum Award: We will not make an award exceeding $450,000 for a single budget period of 12 months.

Estimated Number of Awards: 3.

Note: The Secretary intends to fund a total of three projects in FY 2020, including one project from each of the two identified topic areas and one in the field-initiated area, provided that we receive applications of sufficient quality under each of the priorities. As a result, the Secretary may fund applications out of rank order.

Note: The Department is not bound by any estimates in this notice.

Note: Under 34 CFR 75.562(c), an indirect cost reimbursement on a training grant is limited to the recipient's actual indirect costs, as determined by its negotiated indirect cost rate agreement, or 8 percent of a modified total direct cost base, whichever amount is less. Indirect costs in excess of the limit may not be charged directly, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* States and public or private nonprofit agencies and organizations, including Indian Tribes and institutions of higher education.

2. *Cost Sharing or Matching:* A grantee must contribute to the cost of a project under this program in an amount satisfactory to the Secretary. The part of the costs to be borne by the grantee is determined by the Secretary at the time of the grant award. For the purposes of this competition, the grantee is required to contribute at least 10 percent of the total cost of the project under this program. Furthermore, given the importance of cost sharing funds to the long-term success of the project, eligible entities must identify appropriate non-Federal funds in the proposed budget.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c) a grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR part 200.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the Innovative Rehabilitation Training competition, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make an award by the end of FY 2020.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 45 pages and (2) use the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 387.30 and 34 CFR 75.210, and are as follows:

(a) *Relevance to State-Federal rehabilitation service program.* (10 points)

(1) The Secretary reviews each application for information that shows that the proposed project appropriately relates to the mission of the State-Federal rehabilitation service program.

(2) The Secretary looks for information that shows that the project can be expected either—

(i) To increase the supply of trained personnel available to public and private agencies involved in the rehabilitation of individuals with disabilities; or

(ii) To maintain and improve the skills and quality of rehabilitation personnel.

(b) *Nature and scope of curriculum.* (10 points)

(1) The Secretary reviews each application for information that demonstrates the adequacy and scope of the proposed curriculum.

(2) The Secretary looks for information that shows that—

(i) The curriculum and teaching methods provide for an integration of theory and practice relevant to the educational objectives of the program; and

(ii) The didactic coursework includes student exposure to vocational rehabilitation processes, concepts, programs, and services.

(c) Need for project and significance. (10 points)

(1) The Secretary considers the need for and significance of the proposed project.

(2) In determining the need for and significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project will prepare personnel for fields in which shortages have been demonstrated.

(ii) The potential contribution of the proposed project to increased knowledge or understanding of rehabilitation problems, issues, or effective strategies.

(iii) The potential contribution of the proposed project to the development and advancement of theory, knowledge, and practices in the field of study.

(d) *Quality of the project design.* (10 points)

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which performance feedback and continuous improvement are integral to the design of the proposed project.

(e) *Quality of project services and personnel.* (20 points)

(1) The Secretary considers the quality of the project services to be provided by the proposed project and the personnel who will carry out the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(4) In addition, the Secretary considers the following factors:

(i) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(ii) The extent to which the training or professional development services to be provided by the proposed project are likely to alleviate the personnel shortages that have been identified or are the focus of the proposed project.

(iii) The qualifications, including relevant training and experience, of the project director or principal investigator.

(iv) The qualifications, including relevant training and experience, of key project personnel.

(f) *Adequacy of resources.* (15 points)

(1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(ii) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(iii) The potential for the incorporation of project purposes, activities, or benefits into the ongoing program of the agency or organization at the end of the Federal funding.

(g) *Quality of the management plan.* (10 points)

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(h) *Quality of project evaluation.* (15 points)

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

When reviewing prior performance under 34 CFR 75.217(d)(3) and conducting risk assessments pursuant to 2 CFR 200.205, the Secretary will consider factors such as whether applicants have demonstrated sufficient institutional capacity through the commitment of adequate resources, as described in the selection criteria, and suitable past performance to fully implement multiple awards. In reviewing capacity, the Secretary will consider factors such as whether potential grantees have demonstrated sufficient staffing, an adequate pool of potential scholars, and existing relationships with VR and related agencies to place scholars from multiple grants in appropriate internships. Based on these reviews, the Secretary will take appropriate action under 34 CFR 75.217(d)(3), 2 CFR 200.205, and 2 CFR 3474.10, before making awards to a grantee.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under

this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S.

Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit semiannual and annual performance reports that provide the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* The Government Performance and Results Act of 1993 (GPRA) directs Federal departments and agencies to improve the effectiveness of their programs by engaging in strategic planning, setting outcome-related goals for programs, and measuring program results against those goals.

The performance measures for this program are as follows:

(1) The number of individuals enrolled or participating in the Innovative Rehabilitation Training program, by cohort, during the reporting period.

(2) The number and percentage of individuals who successfully completed the Innovative Rehabilitation Training program, by cohort, during the reporting period.

Note: Topic Area 1—Innovative Rehabilitation Training Project, Client Assistance Program. For performance measures (1) and (2), above, CAP personnel are not enrolled as in other programs. Therefore, the number of individuals participating in the Innovative Rehabilitation Training program activities during the reporting period will be reported; and the number and percentage of individuals who complete the Innovative Rehabilitation Training program activities during the reporting period will be reported.

The GPRA measures are as follows:

(1) The quality of the training developed, as measured by a panel of VR agencies.

(2) The relevance of the training developed, as measured by a panel of VR agencies.

(3) The usefulness of the training developed, as measured by a panel of VR agencies.

Note: For Topic Area 1—Client Assistance Program, quality, relevance, and usefulness will be measured by a panel of rehabilitation educators and individuals who are knowledgeable about CAP.

Innovative Rehabilitation Training program grantees must report the following quantitative and qualitative data:

(a) Program activities that occurred during each fiscal year from October 1 to March 31 and projected program activities to occur from April 1 to September 30 should be included in the semiannual performance report.

(b) Program activities that occur during years 2–5 from October 1 to September 30 should be included in the annual performance report.

Annual project progress toward meeting project goals must be posted on the project website or university website.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

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

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

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

Mark Schultz,

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

[FR Doc. 2020–16959 Filed 8–4–20; 4:15 pm]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2020–SCC–0127]

Agency Information Collection Activities; Comment Request; PLUS Adverse Credit Reconsideration Loan Counseling

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision to an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 5, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2020–SCC–0127. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: PLUS Adverse Credit Reconsideration Loan Counseling.

OMB Control Number: 1845–0129.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 142,824.

Total Estimated Number of Annual Burden Hours: 107,119.

Abstract: Section 428B(a)(1)(A) of the Higher Education Act of 1965, as amended (HEA), provides that to be eligible to receive a Federal PLUS Loan under the Federal Family Education Loan (FFEL) Program, the applicant must not have an adverse credit history, as determined pursuant to regulations promulgated by the Secretary. In accordance with section 455(a)(1) of the HEA, this same eligibility requirement applies to applicants for PLUS loans under the Direct Loan Program. Since July 1, 2010 there have been no new FFEL Program loans originated and the Direct Loan Program is the only Federal loan program that offers Federal PLUS Loans.

The adverse credit history section of the eligibility regulations in 34 CFR § 685.200(b) and (c) were updated in 2014 by the Department of Education (the Department) when a review of and a change to the regulations was made. Specifically, an applicant for a PLUS loan who is determined to have an adverse credit history must complete loan counseling offered by the Secretary before receiving the Federal PLUS loan. The Department is requesting a revision to the information collection regarding the adverse credit history regulations in 34 CFR § 685.200(b) and (c) and the burden these changes create for Federal PLUS loan borrowers, both parent and graduate/professional students.

Dated: August 3, 2020.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2020–17172 Filed 8–5–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Independent Living Services for Older Individuals Who Are Blind—Independent Living Services for Older Individuals Who Are Blind Training and Technical Assistance

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

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for fiscal year (FY) 2020 for the Independent Living Services for Older Individuals Who Are Blind Program—Independent Living Services for Older Individuals Who Are Blind (OIB) Training and Technical Assistance, Catalog of Federal Domestic Assistance (CFDA) number 84.177Z. This notice relates to the approved information collection under OMB control number 1820–0018.

DATES: *Applications Available:* August 6, 2020.

Deadline for Transmittal of Applications: September 3, 2020.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Mary Williams, U.S. Department of Education, 400 Maryland Avenue SW, Room 5100, Potomac Center Plaza (PCP), Washington, DC 20202–5176. Telephone: (202) 245–7586. Email: *mary.williams@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to provide training and technical assistance to designated State agencies (DSAs)—the State agencies that provide vocational rehabilitation services to individuals who are blind—that receive grant funding under the OIB program and to other service providers that receive OIB program funding from DSAs to provide services to consumers. The training and technical assistance are designed to improve the operation and performance of programs and services for older individuals who are blind resulting in their enhanced independence and self-sufficiency.

Priorities: This notice includes one absolute priority and one competitive preference priority. These priorities are from the notice of final priorities and definitions for this program published elsewhere in this issue of the **Federal Register** (NFP).

Absolute Priority: For FY 2020, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Independent Living Services for Older Individuals Who Are Blind (OIB) Training and Technical Assistance.

This priority supports a cooperative agreement to establish an OIB Training and Technical Assistance Center (Center) to provide universal, targeted, and intensive training and technical assistance to designated State agencies (DSAs) funded under the OIB program and to any service providers that DSAs fund to provide services directly to consumers. The Center will develop and provide training and technical assistance in the following general topic areas:

(a) Community outreach methods and strategies to identify potential recipients of services.

(b) Promising practices, based on ''promising evidence'' as defined in 34 CFR 77.1(c), including the development and dissemination of relevant materials to facilitate the delivery of high-quality services.

(c) Program performance, including data reporting and analysis.

(d) Financial and management practices, including practices to ensure compliance with grant administration requirements.

To meet the requirements of this priority, the Center must, at a minimum, conduct the following activities:

(a) Annually provide intensive training and technical assistance to a minimum of three DSAs or other service providers on the four general topic areas in this priority. Intensive training and technical assistance may be provided through remote delivery as appropriate. The technical assistance must be—

(1) Consistent with the project activities and tailored to the specific needs and challenges of the DSA or other service provider receiving intensive training and technical assistance;

(2) Provided under an agreement with each DSA or other service provider that, at a minimum, details the purpose, intended outcomes, and requirements for subsequent evaluation of the training and technical assistance; and

(3) Assessed 90 days after completion to ensure that the DSAs and other service providers receiving intensive training and technical assistance are applying it effectively, and to address any issues or challenges in its implementation.

(b) Provide a range of targeted training and technical assistance and universal training and technical assistance products and services on the four general topic areas in this priority. The training and technical assistance must include, at a minimum, the following activities:

(1) In each year of the project, provide a minimum of 10 webinars, podcasts, video conferences, teleconferences, or other virtual methods of dissemination of information and training and technical assistance on the four general topic areas in this priority to describe and disseminate information about emerging promising practices.

(2) Develop new information technology (IT) platforms or systems, or modify existing platforms and systems, as follows:

(i) Develop or modify, and maintain, a state-of-the-art IT platform sufficient to support webinars, podcasts, video conferences, teleconferences, and other virtual methods of dissemination of information and training and technical assistance; and

(ii) Develop or modify, and maintain, a state-of-the-art archiving and dissemination system that is open and available to the public, at no cost, and that provides a central location for later use of training and technical assistance products, including course curricula, audiovisual materials, webinars, examples of emerging and promising practices related to the four general topic areas in this priority, and any other training and technical assistance products developed by the grantee and others.

Note: All products produced by the Center must meet government and industry-recognized standards for accessibility.

(c) Conduct outreach to DSAs so that they are aware of, and can participate in, training and technical assistance activities.

(d) Establish a community of practice [1] that will act as a vehicle for communication, an exchange of information among DSAs and other service providers, and a forum for sharing the results of training and

[1] See: *www.sedl.org/pubs/catalog/items/dis104.html.*

technical assistance activities that are in progress or that have been completed.

(e) Facilitate annually a minimum of one in-person conference, or, if health and safety reasons make an in-person conference infeasible, a virtual conference, for the purpose of dissemination of information related to emerging promising practices and ongoing technical assistance needs and activities.

(f) Communicate and coordinate, on an ongoing basis, with other federally funded training and technical assistance projects, particularly Department-funded projects, to ensure that training and technical assistance activities are complementary and non-duplicative.

(g) Conduct an evaluation to determine the impact of the Center's training and technical assistance on the DSAs and other service providers that received the Center's services.

Competitive Preference Priority: For FY 2020, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 5 points to an application, depending on how well the application meets the competitive preference priority.

This priority is:

Identify and Demonstrate how Specific Technical Assistance Strategies Provided to OIB Grantees will Facilitate Collaboration and Leveraging of Resources at the State and Local Level.

To meet the requirements of this priority, the Center must, at a minimum, develop technical assistance focused on partnerships to facilitate the sharing of information and leveraging of resources from other systems that work with aging individuals and individuals with disabilities.

These technical assistance strategies must be designed to improve the capacity of OIB grantee staff, and staff from other service providers that receive OIB program funding from DSAs to provide services to the OIB population, to acquire and develop the skills and tools they need to help the OIB population sustain and increase their ability to live independently in their homes and communities.

Definitions:

For FY 2020, the following definitions from the NFP apply to this competition:

Intensive training and technical assistance means training and technical assistance provided to a DSA, or other service provider that receives OIB program funding from a DSA to provide services, primarily on-site or through remote delivery, as needed and appropriate, over an extended period. Intensive training and technical assistance is based on an ongoing relationship between the training and technical assistance center staff and a DSA, or other service provider that receives OIB program funding from a DSA to provide services, under the terms of a signed intensive training and technical assistance agreement.

Targeted training and technical assistance means training and technical assistance based on needs common to one or more DSAs, or other service providers that receive OIB program funding from DSAs to provide services, on a time-limited basis and with a limited commitment of training and technical assistance center resources. Targeted training and technical assistance are delivered through virtual or in-person methods tailored to the identified needs of the participating DSAs, or other service providers that receive OIB program funding from DSAs to provide services.

Universal training and technical assistance means training and technical assistance broadly available to DSAs, or other service providers that receive OIB program funding from DSAs to provide services, and other interested parties resulting in minimal interaction with training and technical assistance center staff. Universal training and technical assistance includes generalized presentations, products, and related activities available through a website or through brief contact with the training and technical assistance center staff.

Program Authority: 29 U.S.C. 796j–1.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 367. (e) The NFP.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $596,956.

Maximum Award: We will not make an award exceeding $596,956 for a single budget period of 12 months.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Note: Under 34 CFR 75.562(c), an indirect cost reimbursement on a training grant is limited to the recipient's actual indirect costs, as determined by its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. Indirect costs in excess of the limit may not be charged directly, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* State and public or non-profit agencies and organizations and institutions of higher education that have the capacity to provide training and technical assistance in the provision of independent living services for older individuals who are blind and have demonstrated through their application a capacity to provide the level of training and technical assistance as indicated in the priority section of this notice.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR part 200.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the OIB Training and Technical Assistance competition, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether

any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make an award by the end of FY 2020.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 45 pages and (2) use the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed below:

(a) *Significance (15 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses;

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project;

(iii) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the OIB population; and

(iv) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in independent living services.

(b) *Quality of project design (10 points).*

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

(ii) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance;

(iii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population; and

(iv) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(c) *Quality of project services (25 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice;

(ii) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services;

(iii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services; and

(iv) The extent to which the technical assistance services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(d) *Quality of the project evaluation (15 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

(ii) The extent to which the methods of evaluation are appropriate to the context within which the project operates;

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes; and

(iv) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(e) *Adequacy of resources (10 points).*

(1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization; and

(ii) The extent to which the costs are reasonable in relation to the objectives,

design, and potential significance of the proposed project.

(f) *Quality of project personnel (10 points).*

(1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel;

(ii) The qualifications, including relevant training and experience, of project consultants or subcontractors; and

(iii) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(g) *Quality of the management plan (15 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks;

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project;

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project; and

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition, the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure

information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* The goal of this grant is to provide training and technical assistance designed to improve the operation and performance of programs and services for older individuals who are blind resulting in their enhanced independence and self-sufficiency.

The cooperative agreement will specify the measures that will be used to assess the grantee's performance against the goals and objectives of the project, including outcome measures and measures that reflect the quality, relevance, and usefulness of the training and technical assistance products developed by the Center. Such measures will include, at a minimum, (1) the improved administration, operation, and performance of the DSAs or other service providers as measured through the attainment of goals established in the intensive training and technical assistance agreements; and (2) the number and percentage of DSAs or other service providers receiving intensive training and technical assistance that report that the training and technical assistance they received was of high quality, relevant, and useful.

Other specific measures related to the priority areas for training and technical assistance will be determined on an annual basis and specified in the cooperative agreement.

In its annual and final performance reports to the Department, the grantee will be expected to report the data outlined in the cooperative agreement that is needed to assess its performance. The annual performance reports must include both quantitative and qualitative information necessary to assess the Center's performance on the outcome measures established in the cooperative agreement. The data used must be valid and verifiable.

The annual performance reports must provide, at a minimum, specific information on the number of training and technical assistance activities, the topics of such activities, the type of training and technical assistance provided (*i.e.,* intensive, targeted, universal), the number and types of participants served (*i.e.,* DSAs or other providers of services under the OIB program), and summary data from participant evaluations.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

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

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

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

Mark Schultz,

Commissioner, Rehabilitation Services Administration, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2020–17216 Filed 8–4–20; 11:15 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities and Demonstration and Training Programs—The Individuals With Disabilities Education Act (IDEA) Paperwork Reduction Planning and Implementation Program

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

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2020 for the IDEA Paperwork Reduction Planning and Implementation Program, Catalog of Federal Domestic Assistance (CFDA) number 84.326F, to assist States in identifying excessive paperwork and noninstructional time burdens on special education teachers, related services providers, and State and local administrators that do not assist in improving educational and functional results for children with disabilities. The funds will support developing and, if appropriate, implementing comprehensive plans to reduce the burden. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES: *Applications Available:* August 6, 2020.

Deadline for Transmittal of Applications: September 11, 2020.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: David Egnor, U.S. Department of Education, 400 Maryland Avenue SW, Room 5163, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–7334. Email: *David.Egnor@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Programs: The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities Program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research.

The purpose of the IDEA Paperwork Reduction Planning and Implementation Program is to provide competitive grants, including cooperative agreements, to SEAs to assist States in their work to reduce paperwork burden associated with the requirements of IDEA Part B while preserving the rights of children with disabilities and promoting academic achievement.

Priority: These priorities are from the notice of final priorities, requirements, and selection criteria (NFP) for this program published elsewhere in this issue of the **Federal Register**.

Background:

The Secretary believes that all students should be given the opportunity to succeed and that their success should be the primary focus of everyone in the educational system. When teachers, related services providers, and administrators who serve children with disabilities spend time completing unnecessary paperwork, their ability to prioritize and focus on improving outcomes for children with disabilities is hampered.

In the 2004 reauthorization of IDEA, Congress recognized that some Federal IDEA Part B requirements could create excessive paperwork and noninstructional time burdens on special education teachers, related services providers, and State and local administrators, thus diverting time and resources away from instruction and other activities that would improve educational and functional results for children with disabilities.

As such, under section 609 of IDEA, Congress gave the Department limited authority to grant waivers of certain requirements of IDEA Part B. Waivers may be granted to not more than 15 States and for a period not to exceed four years. Further, the Secretary may not waive any statutory or regulatory provisions relating to applicable civil rights requirements or procedural safeguards under section 615 of IDEA, and waivers may not adversely affect the right of a child with a disability to receive a free appropriate public education (FAPE) under IDEA Part B. In short, States' waiver proposals must preserve the fundamental rights of children with disabilities under IDEA.[1] In addition, States have always had the authority, within the constraints of State law, to change or waive State requirements that exceed IDEA statutory and regulatory requirements in order to reduce administrative burden.

Under section 609 of IDEA, the waivers must be based upon proposals submitted by States. In a Notice of Proposed Requirements that was published in the **Federal Register** on June 5, 2020 (85 FR 34554), the Department proposed requirements for States to obtain waivers under section 609 of IDEA (the IDEA Paperwork Reduction Waivers). We invited the public to review that document in conjunction with a notice of proposed priority and requirements (NPP) for this program published in the **Federal Register** on May 29, 2020 (85 FR 32317) and identify any potential inconsistencies or implementation issues that may arise.

The Department also recognizes that the implementation and evaluation of waivers granted under section 609 of IDEA may require additional Federal support. As such, the Department is making funding available to plan for, and then implement, waivers of requirements under section 609 of IDEA to reduce excessive paperwork and non-instructional time burdens and thus improve educational and functional results for children with disabilities.

States may apply for a planning grant under Absolute Priority 1, an implementation grant under Absolute Priority 2, or both.

Absolute Priority 1: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

The Individuals with Disabilities Education Act (IDEA) Paperwork Reduction Planning and Implementation Program—Planning Grants.

Priority:

The Department seeks to make awards to State educational agencies (SEAs) to assist them in identifying excessive paperwork and noninstructional time burdens on special education teachers, related services providers, and State and local administrators that do not assist in improving educational and functional results for children with disabilities (hereafter in the priority, ''administrative burdens'') and developing comprehensive plans to reduce them. These activities include conducting a comprehensive review of local, State, and Federal IDEA Part B requirements that lead to administrative burdens, as well as, at the discretion of the State, preparing IDEA Paperwork Reduction Waivers for submission to the Department.

Planning projects funded by the Department must achieve, at a minimum, the following expected outcomes:

- Identification of the particular sources and effects of administrative burdens on special education and other teachers, related services providers, and State and local administrators under IDEA Part B; and
- A plan to reduce these administrative burdens.

Under this priority, applicants must propose projects that meet the following programmatic requirements:

(a) The project must meaningfully consult a diverse group of stakeholders on an ongoing basis to support the goals and objectives of the project. Such a group must include, at a minimum, representatives of the following groups:

(i) Special education teachers and related services providers;

(ii) Local special education administrators;

(iii) Individuals with disabilities;

(iv) Parents of children with disabilities, as defined in IDEA section 602(23), including representation of Parent Training and Information Centers (PTIs) and (if applicable) Community Parent Resource Centers (CPRCs); and

(v) The State Advisory Panel.

(b) The project must prepare a plan that—

(i) Identifies the State and local statutory and regulatory requirements or policies, procedures, and practices that exceed IDEA Part B statutory and regulatory requirements and were considered for revision;

(ii) Describes the range of options available to the State in reducing administrative burdens, including any limitations on those options (*e.g.,*

[1] For any State that receives a waiver of Federal IDEA Part B requirements, the Secretary will terminate the waiver if the Secretary determines that the State failed to appropriately implement its waiver, or the Secretary determines the State needs assistance in implementing IDEA requirements and the waiver has contributed to or caused such need for assistance. The Secretary will also terminate the waiver if the Secretary determines the State needs intervention in implementing IDEA requirements, or needs substantial intervention in implementing IDEA requirements.

statutory or regulatory requirements, judicial precedent);

(iii) Establishes clear and achievable timelines for reducing administrative burdens;

(iv) Identifies the anticipated benefits of any potential reforms, including likely beneficiaries, and the magnitude and scope of anticipated benefits, such as reductions in administrative burden hours and potential increases in the time and resources available for instruction and other activities intended to improve educational and functional results for children with disabilities;

(v) Identifies any Federal IDEA Part B statutory or regulatory requirements for which a waiver may be sought under section 609 of IDEA; and

(vi) Describes the procedures the State will use to ensure that any waiver that may be sought in accordance with section 609 of IDEA will not—

(A) Waive any statutory requirements of, or regulatory requirements relating to, applicable civil rights requirements or procedural safeguards under section 615 of IDEA; and

(B) Affect the right of a child with a disability to receive FAPE under IDEA Part B.

To be considered for funding under this priority, applicants must also meet the following application requirements. Each applicant must—

(a) Demonstrate, in the narrative portion of the application under ''Need for the project,'' how the proposed project will identify administrative burdens. To meet this requirement, the applicant must describe what it believes to be—

(1) The approximate current magnitude and scope of the administrative burdens to be addressed;

(2) The approximate current number of special education teachers, related services providers, and State and local administrators affected by those burdens and the number of children with disabilities that they serve; and

(3) The approximate current costs and benefits of those burdens on special education teachers, related services providers, State and local administrators, and children with disabilities (*e.g.,* teacher retention, planning time, transparency for families);

(b) Demonstrate, in the narrative portion of the application under ''Significance'' how the proposed planning project will—

(1) Develop a plan to reduce administrative burdens and produce meaningful and sustained change at the State or local level; and

(2) Develop proposals for changes to, or waivers of, specific requirements, policies, procedures, or practices that will reduce administrative burdens in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities.

(c) Demonstrate, in the narrative section of the application under ''Quality of the project design,'' how the proposed project will—

(1) Meet the consultation requirements in paragraph (a) of the programmatic requirements of this priority, including, but not limited to, a proposed timeline for the consultation process, including a description of the methods of consultation (*e.g.,* in-person meetings, conference calls, emails);

(2) Identify local, State, or Federal IDEA Part B requirements, policies, procedures, or practices that may generate administrative burdens and may be reviewed by the project, including any proposed criteria for that review (*e.g.,* frequency, complexity, number of staff affected, number of families affected);

(3) Assess the extent to which specific sources of administrative burdens may affect educational and functional results for children with disabilities; and

(4) Produce and make publicly available a plan that meets the requirements in paragraph (b) of the programmatic requirements of this priority and providing an opportunity for stakeholders enumerated in paragraph (a) of the programmatic requirements of this priority to comment on the plan.

(d) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks, including the publication of the final plan on the State's website within three months of the close of the project period;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes; and

(3) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policymakers, among others, in its development and operation.

Absolute Priority 2: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

The Individuals with Disabilities Education Act (IDEA) Paperwork Reduction Planning and Implementation Program—Implementation Grants.

Implementation grants provide funds for States to implement comprehensive plans to reduce administrative burdens submitted by the State and approved by the Secretary under section 609 of IDEA. This includes costs associated with developing products or materials that are part of comprehensive plans, such as creating information technology systems to automate paperwork, or creating new, streamlined paperwork to replace more time-consuming paperwork.

To be considered for funding under this priority, an applicant must meet the following application requirements.[2] Each applicant must—

(a) Demonstrate, in the narrative section of the application under ''Quality of the project design,'' how the proposed project will—

(1) Disseminate information about changes in processes, practices, and procedures necessary to reduce administrative burdens to all special education teachers, related services providers, and State and local administrators affected by the State's waiver under section 609 of IDEA (hereafter ''affected staff''), including—

(i) The modes of communication the project will use;

(ii) The frequency of communication; and

(iii) The content of such communications; and

(2) Support the training of all affected staff regarding changes in processes, practices, and procedures necessary to reduce administrative burdens, including a description of the project's intended means of providing this training.

(b) Demonstrate, in the narrative section of the application under

[2] For any State that receives a waiver of Federal IDEA Part B requirements, the Secretary will terminate the waiver if the Secretary determines that the State failed to appropriately implement its waiver, or the Secretary determines the State needs assistance in implementing IDEA requirements and the waiver has contributed to or caused such need for assistance. The Secretary will also terminate the waiver if the Secretary determines the State needs intervention in implementing IDEA requirements, or needs substantial intervention in implementing IDEA requirements.

''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes; and

(3) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policymakers, among others, in its development and operation.

(c) Include, in the narrative section of the application under ''Quality of the project evaluation,'' an evaluation plan for the implementation project. The evaluation plan must—

(1) Articulate formative and summative evaluation questions for evaluating important processes and outcomes, including whether, and how effectively, the waiver—

(i) Reduces paperwork burden on teachers, principals, administrators, and related services providers;

(ii) Reduces non-instructional time spent by teachers in complying with IDEA Part B;

(iii) Enhances longer-term educational planning;

(iv) Improves positive outcomes, including educational and functional results, for children with disabilities;

(v) Promotes collaboration between individualized education program (IEP) Team members, including the parents of the child; and

(vi) Ensures satisfaction of family members of children with disabilities and teachers, principals, administrators, and related service providers;

(2) Describe how progress in, and fidelity of, implementation, as well as project outcomes, will be measured to answer the evaluation questions; specify the measures and associated instruments or sources for data appropriate to the evaluation questions; and include information regarding reliability and validity of measures where appropriate;

(3) Describe strategies for analyzing data and how data collected as part of this plan will be used to inform and improve service delivery over the course of the project and to refine the proposed implementation project and evaluation plan, including subsequent data collection;

(4) Provide a timeline for conducting the evaluation and include staff assignments for completing the evaluation; and

(5) Dedicate sufficient funds in each budget year to cover the costs of developing, refining, and implementing the evaluation plan.

Requirements: These requirements are from the notice of final priorities, requirements, and selection criteria (NFP) for this program published elsewhere in this issue of the **Federal Register**.

Funding Eligibility Requirements:

(a) In order to receive funding for an implementation grant an applicant must already have a waiver under section 609 of IDEA approved by the Secretary.

(b) For an applicant that receives a grant under Absolute Priority 1—

(1) That does not submit a waiver proposal to the Secretary under section 609 of the IDEA within 12 months of the start of the project period, the grant will end after 12 months without opportunity for extension;

(2) That submits a waiver proposal to the Secretary under section 609 of the IDEA within 12 months of the start of the project period, the project period will be automatically extended for a period, not to exceed 6 months, during which the Secretary will consider the proposal;

(i) While a State's waiver proposal is under review, grantees may continue to access available remaining funds to conduct one or more of the following planning grant activities:

(A) Responding to possible questions from the Department regarding the State's proposal to obtain a waiver under section 609 of IDEA and the IDEA Paperwork Reduction Waivers; and

(B) Continuing to develop, or implement, planned activities to reduce administrative burdens.

(ii) If the Secretary approves the State's IDEA paperwork reduction waiver under section 609 of IDEA and

(A) The grantee received a grant under Priorities 1 and 2, the grantee may use remaining funds and additional funding obligated by the Department under this program to carry out activities under Priority 2.

(B) The grantee only received a grant under Priority 1, the grantee may continue to access available remaining funds to ensure continuity of the project while applying for an implementation award under Absolute Priority 2. The project period for the grant under Priority 2 must end no later than 45 days after an award is made under Priority 2 without opportunity for extension.

(iii) If the Secretary denies the State an IDEA paperwork reduction waiver under section 609 of IDEA, the project period will end no more than 30 days after the State's receipt of the Secretary's decision, without opportunity for extension.

Program Authority: 20 U.S.C. 1408 and 1463.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The NFP.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: Projects must be awarded and operated in a manner consistent with the nondiscrimination requirements contained in the U.S. Constitution and the Federal civil rights laws and consistent with the specific requirements of section 609 of the IDEA.

II. Award Information

Type of Award: Cooperative agreements.

Estimated Available Funds: $3,750,000.

Note: Applicants must submit a separate ED Form 524 and budget narrative for each absolute priority.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2021 from the list of unfunded applications from this competition.

Estimated Range of Awards: $150,000-$400,000 (Priority 1); and $250,000-$750,000 (Priority 2).

Estimated Average Size of Awards: $500,000.

Estimated Number of Awards: 7.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to

entities to directly carry out project activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR part 200.

4. *Other General Requirements:*

(a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make an award by the end of FY 2020.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 70 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from the notice of final priorities, requirements, and selection criteria (NFP) for this program published elsewhere in this issue of the **Federal Register** and 34 CFR 74.210 and are as follows:

(a) *Need for the project (20 points) (Priority 1 only).*

(1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude or severity of the problem to be addressed by the proposed project. (34 CFR 75.210)

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses. (34 CFR 75.210)

(b) *Significance (25 points) (Priorities 1 and 2).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the likelihood that the proposed project will reduce administrative burdens and increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities. (NFP)

(c) *Quality of the project design (30 points) (Priorities 1 and 2).*

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the design of the proposed project will successfully reduce administrative burdens and increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities. (NFP)

(ii) The extent to which the proposed project encourages and is responsive to consumer involvement, including parental involvement. (NFP)

(iii) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (NFP)

(iv) The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replication of project activities or strategies, including information about the effectiveness of the approach or strategies employed by the project. (NFP)

(d) *Quality of the management plan (25 points) (Priorities 1 and 2).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers how the applicant will ensure that a diversity of perspectives is brought to bear in the operation of the proposed project, including those of parents, teachers, related services providers, school administrators, and others, as appropriate. (NFP)

(e) *Quality of the project evaluation (20 points) (Priority 2 only).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (34 CFR 75.210)

(ii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies. (34 CFR 75.210)

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (34 CFR 75.210)

(iv) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible. (34 CFR 75.210)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* Under the Government Performance Results Modernization Act of 2010, the Department has established a set of performance measures that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities program. These measures are:

- *Program Performance Measure 1:* The number of administrative burdens identified for reduction.
- *Program Performance Measure 2:* The number of special education teachers, related services providers, and administrators impacted by the proposed burden reduction.
- *Program Performance Measure 3:* The estimated change in hours spent by teachers, related services providers and administrators on compliance with administrative burdens as a result of the proposed burden reduction.

The measures apply to projects funded under this competition, and

grantees are required to submit data on these measures as directed by the Office of Special Education Programs (OSEP).

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

The Department will also closely monitor the extent to which the products and services provided by the Center meet the needs identified by stakeholders and may require the Center to report on such alignment in their annual and final performance reports.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

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

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

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

Mark Schultz,

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

[FR Doc. 2020–17218 Filed 8–4–20; 11:15 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application Forms and Instructions for the National Resource Centers (84.015A) and Foreign Language and Area Studies Fellowships (84.015B) Programs

AGENCY: Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before September 8, 2020.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Sarah Beaton, 202–453–7221.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Application Forms and Instructions for the National Resource Centers (84.015A) and Foreign Language and Area Studies Fellowships (84.015B) Programs.

OMB Control Number: 1840–0807.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 165.

Total Estimated Number of Annual Burden Hours: 17,325.

Abstract: This information collection (OMB 1840–0807) includes application instructions and forms for the National Resource Centers (NRC) Program (CFDA Number 84.015A) and the Foreign Language and Area Studies (FLAS) Fellowships Program (CFDA Number 84.015B), authorized under Title VI of the Higher Education Act of 1965, as amended (20 U.S.C. Section 1122). The type of collection is an extension of a previously-approved information collection (application).

The NRC Program provides grants to institutions of higher education (IHE) or consortia of IHEs to establish, strengthen, and operate comprehensive and undergraduate foreign language and area or international studies centers. These centers serve as centers of excellence for world language training and teaching, research, and instruction in fields needed to provide full understanding of areas, regions, or countries where the languages are commonly used. The FLAS Fellowship Program awards allocations of fellowships, through institutions of higher education, to meritorious students enrolled in programs that offer performance-based instruction in world languages in combination with area studies, international studies, or the international aspects of professional studies.

Together, these programs respond to the ongoing national need for individuals with expertise and

competence in world languages and area or international studies; advance national security by developing a pipeline of highly proficient linguists and experts in critical world regions; and contribute to developing a globally competent workforce able to engage with a multilingual/multicultural clientele at home and abroad. Approval of this collection is necessary in order to conduct fiscal year (FY) 2022 program competitions.

This collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1894–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection request.''

Dated: August 3, 2020.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2020–17160 Filed 8–5–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; International Research and Studies Program—Research, Studies, and Surveys; and Specialized Instructional Materials

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2020 for the International Research and Studies (IRS) program, Catalog of Federal Domestic Assistance (CFDA) number 84.017A. This notice relates to the approved information collection under OMB control number 1840–0795.

DATES: *Applications Available:* August 6, 2020.

Deadline for Transmittal of Applications: September 8, 2020.

Pre-Application Webinar Information: The Department will hold a pre-application meeting via webinar for prospective applicants. Detailed information regarding the webinar will be provided on the website for the IRS program at *www.ed.gov/programs/iegpsirs/index.html.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg.FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Cheryl E. Gibbs, U.S. Department of Education, 400 Maryland Avenue SW, Room 257–09, Washington, DC 20202. Telephone: (202) 453–5690. Email: *cheryl.gibbs@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The IRS program provides grants to institutions, public and private agencies, organizations, and individuals to conduct research and studies to improve and strengthen instruction in modern foreign languages, area studies, and other international fields.

The research and studies may include, but are not limited to—

(a) Studies and surveys to determine needs for increased or improved instruction in modern foreign languages, area studies, or other international fields, including the demand for foreign language, area, or other international specialists in government, education, and the private sector;

(b) Research on more effective methods of providing instruction and achieving competency in foreign languages, area studies, or other international fields;

(c) Research on applying performance tests and standards across all areas of foreign language instruction and classroom use;

(d) Developing and publishing specialized materials for use in foreign language, area studies, and other international fields or for training foreign language, area, and other international specialists;

(e) Studies and surveys to assess the use of graduates of programs supported under title VI of the HEA by governmental, educational, and private-sector organizations and other studies assessing the outcomes and effectiveness of supported programs;

(f) Comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

(g) Evaluation of the extent to which programs assisted under title VI of the HEA that address national needs would not otherwise be offered;

(h) Studies and surveys of the use of technologies in foreign language, area studies, and international studies programs;

(i) Studies and evaluations of effective practices in the dissemination of international information, materials, research, teaching strategies, and testing techniques throughout the educational community, including elementary and secondary schools;

(j) Evaluations of the extent to which programs assisted under title VI of the HEA reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs, as described in the grantee's application;

(k) Systematic collection, analysis, and dissemination of data that contribute to achieving the purposes of title VI, part A of the HEA; and

(l) Support for programs or activities to make data collected, analyzed, or disseminated under 20 U.S.C. 1125 publicly available and easy to understand.

Priorities: Under this competition there are three competitive preference priorities. In accordance with 34 CFR 75.105(b)(2)(ii), these priorities are from regulations (34 CFR 660.1).

In this competition, the Department invites applicants to submit an application to request support for either a Research, Studies, and Surveys project or a Specialized Instructional Materials project. Applicants must provide in section 15 of the SF 424 Application for Federal Assistance, a description that clearly identifies the type of IRS project for which funding is requested. Additional submission details are included in the application package.

Competitive Preference Priorities: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award an additional five points to an application that meets one of Competitive Preference Priority 1, Competitive Preference 2, or Competitive Preference Priority 3. An applicant may receive points under only one competitive preference priority. In the application project abstract, you must indicate the selected competitive preference priority being addressed by the FY 2020 proposed project and provide a substantive description of how the project activities meet the priority.

These priorities are:

Competitive Preference Priority 1. (5 points).

Research on more effective methods of providing instruction and achieving

competency in modern foreign languages, area studies, or other international fields.

Competitive Preference Priority 2. (5 points).

Studies and surveys to assess the use of graduates of programs supported under title VI of the HEA by governmental, educational, and private-sector organizations and other studies assessing the outcomes and effectiveness of supported programs.

Competitive Preference Priority 3. (5 points).

Developing and publishing specialized materials for use in foreign language, area studies, and other international fields or for training foreign language, area, and other international specialists.

Program Authority: 20 U.S.C. 1125.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR parts 655 and 660.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $900,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2021 from the list of unfunded applications from this competition.

Estimated Range of Awards: $36,000–$60,000 for each 12-month budget period.

Estimated Average Size of Awards: $48,000.

Estimated Number of Awards: 18.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* Public and private agencies, organizations, institutions, and individuals.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the IRS grant competition, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended). Because we plan to post on our website a selection of FY 2020 IRS funded abstracts and applications' narrative sections, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate the application. We recommend that you (1) limit the application narrative to no more than 30 pages and (2) use the following standards:

- A page is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, *except* titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, Application for Federal Assistance cover sheet (SF 424); the Supplemental Information For SF 424B; Part II, ED 524 (Summary Budget A) and the detailed budget justification (Summary Budget C); or Part IV, assurances and certifications. The recommended page limit also does not apply to the project abstract, curriculum vitae, or letters of support. However, the recommended page limit does apply to the entire application narrative.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 655.31, 660.31, 660.32, and 660.33. The total maximum score for the selection criteria and the selected competitive preference priority is 100 points for applications for research, studies, and surveys; and the total maximum score for the selection criteria and the selected competitive preference priority is 100 points for specialized instructional materials projects. The maximum score for each criterion is indicated in parentheses.

Note: Applications for a research project, study, or a survey will be evaluated using the criteria in 34 CFR 655.31 and 660.32. Applications for the development of specialized instructional materials will be evaluated using the selection criteria in 34 CFR 655.31 and 660.33.

The Secretary uses the following criteria to evaluate applications for a research project, study, or a survey:

(a) *Plan of operation (up to 10 points).*

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows–

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project

participants who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, and handicapped persons.

(b) *Quality of key personnel (up to 10 points).*

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project. In the case of faculty, the qualifications of the faculty and the degree to which that faculty is directly involved in the actual teaching and supervision of students;

(iii) The time that each person referred to in paragraphs (b)(2)(i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness (up to 5 points).*

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan (up to 10 points).*

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources (up to 5 points).*

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) Other than library, facilities that the applicant plans to use are adequate (language laboratory, museums, etc.); and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Need for the project (up to 10 points).*

The Secretary reviews each application for information that shows—

(1) A need for the proposed project in the field of study on which the project focuses; and

(2) That the proposed project will provide information about the present and future needs of the United States for study in foreign language and other international fields.

(g) *Usefulness of expected results (up to 10 points).*

The Secretary reviews each application for information that shows the extent to which the results of the proposed project are likely to be used by other research projects or programs with similar objectives.

(h) *Development of new knowledge (up to 10 points).*

The Secretary reviews each application for information that shows that the extent to which the proposed project is likely to develop new knowledge that will contribute to the purposes of the International Education Program authorized by part A of title VI of the HEA.

(i) *Formulation of problems and knowledge of related research (up to 10 points).*

The Secretary reviews each application for information that shows that problems, questions, or hypotheses to be dealt with by the applicant—

(1) Are well formulated; and

(2) Reflect adequate knowledge of related research.

(j) *Specificity of statement of procedures (up to 5 points).*

The Secretary reviews each application for the specificity and completeness of the statement of procedures to be followed, including a discussion of such components as sampling techniques, controls, data to be gathered, and statistical and other analyses to be undertaken.

(k) *Adequacy of methodology and scope of project (up to 10 points).*

The Secretary reviews each application for information that shows—

(1) The adequacy of the proposed teaching, testing, and research methodology; and

(2) The size, scope, and duration of the proposed project.

The Secretary uses the following criteria to evaluate applications for development of specialized instructional materials:

(a) *Plan of operation (up to 10 points).*

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows–

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, and handicapped persons.

(b) *Quality of key personnel (up to 10 points).*

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project. In the case of faculty, the qualifications of the faculty and the degree to which that faculty is directly involved in the actual teaching and supervision of students;

(iii) The time that each person referred to in paragraphs (b)(2)(i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness (up to 5 points).*

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan (up to 10 points).*

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources (up to 5 points).*

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) Other than library, facilities that the applicant plans to use are adequate (language laboratory, museums, etc.); and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Need for the project (up to 10 points).*

The Secretary reviews each application for information that shows that—

(1) The proposed materials are needed in the educational field of study on which the project focuses; and

(2) The language or languages, the area, region, or country, or the issues or studies for which the materials are to be developed, are of sufficient priority and significance to the national interest to warrant financial support by the Federal Government.

(g) *Potential for the use of materials in other programs (up to 10 points).*

The Secretary reviews each application for information that shows the extent to which the proposed materials may be used elsewhere in the United States.

(h) *Account of related materials (up to 5 points).*

The Secretary reviews each application for information that shows that—

(1) All existing related or similar materials have been accounted for and the critical commentary on their adequacy is appropriate and accurate; and

(2) The proposed materials will not duplicate any existing adequate materials.

(i) *Likelihood of achieving results (up to 10 points).*

The Secretary reviews each application for information that shows that the outlined methods and procedures for preparing the materials are practicable and can be expected to produce the anticipated results.

(j) *Expected contribution to other programs (up to 10 points).*

The Secretary reviews each application for information that shows the extent to which the proposed work may contribute significantly to strengthening, expanding, or improving programs of foreign language studies, area studies, or international studies in the United States.

(k) *Description of final form of materials (up to 5 points).*

The Secretary reviews each application for information that shows a high degree of specificity in the description of the contents and final form of the proposed materials.

(l) *Provisions for pretesting and revision (up to 5 points).*

The Secretary reviews each application for information that shows that adequate provision has been made for—

(1) Pretesting the proposed materials; and

(2) If necessary, revising the proposed materials before publication.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved

application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

Performance reports for the IRS program must be submitted electronically using the International Resource Information System (IRIS), the International and Foreign Language Education office's web-based reporting system. For information about the system and to view the reporting instructions, please go to *http://iris.ed.gov/iris/pdfs/IRS.pdf.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* The following performance measures have been established to assess the effectiveness of the IRS program:

1. Percentage of IRS projects that are focused on improving or strengthening K–16 instruction in less commonly taught languages, area studies, or other international fields.

2. Percentage of IRS projects that are focused on the evaluation of the outcomes and effectiveness of Title VI-Fulbright-Hays International Education programs in addressing national needs.

3. Percentage of IRS projects that result in information from IRS studies, surveys, or research on language, area, and international studies being made available and accessible to the public.

4. The cost per IRS project that is focused on improving or strengthening K–16 instruction in modern foreign languages, area studies, and other international fields.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

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

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

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

Robert L. King,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2020–17170 Filed 8–4–20; 11:15 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Waivers Granted Under Section 3511 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Notice.

SUMMARY: In this notice, we announce waivers that the Department of Education (Department) granted, within the last 30 days, under the CARES Act.

FOR FURTHER INFORMATION CONTACT: Hugh Reid, U.S. Department of Education, 400 Maryland Avenue SW, Room 11114, Potomac Center Plaza, Washington, DC 20202. Telephone: (202) 245–7491. Email: *Hugh.Reid@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3511(d)(3) of the CARES Act requires the Secretary to publish, in the **Federal Register** and on the Department's website, a notice of the Secretary's decision to grant a waiver. The Secretary must publish this notice no later than 30 days after granting the waiver and the notice must include which waiver was granted and the reason for granting the waiver. This notice is intended to fulfill the Department's obligation to publicize its waiver decisions by identifying the waivers granted under section 3511.

The Department has approved waivers of the following requirement: Section 421(b) of the General Education Provisions Act (GEPA) to extend the period of availability of fiscal year (FY) 2018 funds for programs in which the State educational agency (SEA)

participates as the eligible agency until September 30, 2021.

On April 17, 2020, the Secretary delegated to the Assistant Secretary for Career, Technical, and Adult Education (Assistant Secretary), for programs over which the Assistant Secretary has administrative authority, the authority to grant waivers under section 3511 of the CARES Act. On May 15, 2020, the Office of Career, Technical, and Adult Education (OCTAE) published a notice in the **Federal Register** (85 FR 29440) announcing 41 waivers that were granted to SEAs. Twenty-eight of those waivers were for State grants authorized by Title I of the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins), and 13 of those waivers were for State grants authorized by Title II of the Workforce Innovation and Opportunity Act (WIOA) (*i.e.,* the Adult Education and Family Literacy Act (AEFLA)).

On June 15, 2020, OCTAE published a notice in the **Federal Register** (85 FR 36195) announcing six waivers that were granted to SEAs. Three of those waivers were for State grants authorized by Title I of Perkins, and three of those waivers were for State grants authorized by Title II of WIOA (AEFLA). In the last 30 days, OCTAE granted two waivers to SEAs.

Waiver Data

Extensions of the Obligation Period

One waiver was granted to an SEA for a State grant authorized by Title I of Perkins, and one waiver was granted to an SEA for a State grant authorized by Title II of WIOA (AEFLA).

Provision waived: Tydings Amendment, section 421(b) of GEPA (20 U.S.C. 1225(b)).[1]

Reasons: These waivers were granted under section 421(b) of GEPA to extend the period of availability of FY 2018 funds until September 30, 2021, pursuant to the 2018 Consolidated Appropriations Act (GEPA section 421(b) waivers). It is not possible to obligate funds on a timely basis, as originally planned, due to extensive school and program disruptions in the States. These disruptions are in response to extraordinary circumstances for which a national emergency related to the COVID–19 pandemic has been duly declared by the President of the United States under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207, and will protect the health and safety of students, staff, and our communities.

Waiver Applicants: The SEA GEPA section 421(b) waiver applicants provided assurance that the SEA will: (1) Use, and ensure that its subgrantees will use, funds under the respective programs in accordance with the provisions of all applicable statutes, regulations, program plans, and applications not subject to these waivers; (2) work to mitigate, and ensure that its subgrantees will work to mitigate, any negative effects that may occur as a result of the requested waiver; and (3) provide the public and all subgrantees in the State with notice of, and the opportunity to comment on, this request by posting information regarding the waiver request and the process for commenting on the State website.

The Assistant Secretary reviewed the SEAs' requests for a GEPA section 421(b) waiver and determined that the following SEAs met the requirements for a GEPA section 421(b) waiver on the dates indicated below:

(1) A State grant authorized by Title I of Perkins:

- Michigan Department of Education, July 7, 2020.

(2) A State grant authorized by Title II of WIOA (AEFLA):

- New Hampshire Department of Education, July 8, 2020.

The Assistant Secretary also announced the waiver decisions at: *https://www2.ed.gov/about/offices/list/ovae/pi/covid19/index.html.*

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

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

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

Scott Stump,

Assistant Secretary for Career, Technical, and Adult Education.

[FR Doc. 2020–17154 Filed 8–5–20; 8:45 am]

BILLING CODE 4000–01–P

[1] Section 3511(b) of the CARES Act only authorizes the Secretary to grant waivers requested by SEAs of the Tydings Amendment, section 421(b) of GEPA, to extend the period of availability of State formula grant funds authorized by Perkins and AEFLA. The Department currently does not have the authority to grant a waiver of the Tydings Amendment with respect to Perkins or AEFLA to States in which the SEA is not the grantee for these State-administered programs.

DEPARTMENT OF EDUCATION

[Docket No.: ED–2020–SCC–0129]

Agency Information Collection Activities; Comment Request; Implementation of Key Federal Policies in the Wake of the Coronavirus Pandemic

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection request.

DATES: Interested persons are invited to submit comments on or before October 5, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2020–SCC–0129. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave, SW, LBJ, Room 6W208B, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Erica Lee, 202–245–7437.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Implementation of Key Federal Policies in the Wake of the Coronavirus Pandemic.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 201.

Total Estimated Number of Annual Burden Hours: 151.

Abstract: The coronavirus pandemic significantly disrupted K–12 educational operations and learning in spring 2020 and is likely to do so again during the 2020–21 school year. Federal education policies and funding are intended to support state and local agencies as they respond to the crisis. But the crisis may also shape the way federal programs are carried out. The U.S. Department of Education (the Department), through its Institute for Education Sciences (IES), is requesting clearance for a new data collection to examine how the pandemic may be influencing: (1) Implementation of, and waivers, from key provisions of the Elementary and Secondary Education Act, reauthorized as the Every Student Succeeds Act of 2015 (ESSA), and (2) state and district use of federal funds, including those provided specifically to help in the pandemic recovery. The surveys of all state education agencies and a nationally representative sample of school districts is being conducted as part of an ongoing evaluation of Titles I and IIA of ESSA.

Dated: August 3, 2020.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2020–17159 Filed 8–5–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Child Care Access Means Parents in School Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2020 for the Child Care Access Means Parents in School (CCAMPIS) Program, Catalog of Federal Domestic Assistance (CFDA) number 84.335A. This notice relates to the approved information collection under OMB control number 1840–0737.

DATES:

Applications Available: August 6, 2020.

Deadline for Transmittal of Applications: September 8, 2020.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Tanisha-Hamblin Johnson, U.S. Department of Education, 400 Maryland Avenue SW, Room 273–23, Washington, DC 20202–4260. Telephone: (202) 453–6090. Email: *tanisha.johnson@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The CCAMPIS Program supports the participation of low-income parents in postsecondary education through the provision of campus-based childcare services.

Background: Through the first competitive preference priority in this competition, the Secretary seeks to encourage applicants to offer parents a variety of childcare options. At a time when many campus facilities are closed across the country in response to the COVID–19 crisis, student parents are in need of a variety of childcare options now more than ever. For example, applicants may propose to provide student-parents with a greater range of options at which to direct their childcare funds. The grantee institution would still be responsible for fulfilling the requirements of the program, such as by limiting the use of childcare vouchers to student-parents who qualify for CCAMPIS support, and requiring those student-parents to use the vouchers to obtain childcare by a provider or facility licensed by the applicable State body. With access to a greater diversity of childcare settings, parents would have the opportunity to select an option that meets the unique developmental needs of their child and their own postsecondary educational needs, including with respect to transportation, work schedules, and obligations to other family members. Additionally, applicants may consider describing how their new or existing campus-based childcare centers would offer flexible and affordable childcare arrangements to low-income parents pursuing postsecondary education, such as part-time, drop-in, or evening childcare services. All applicants, including applicants that address this competitive preference priority, must, under section 419N(c)(9) of the HEA, limit the use of childcare vouchers issued using CCAMPIS funds to childcare provided by childcare providers or centers that are licensed by the applicable State or local agency to provide childcare services. The second competitive preference priority provides additional points to applicants proposing to provide services in Qualified Opportunity Zones (QOZs).

The Department also encourages applicants to propose support for student-parents in identifying other Federal and State resources, in addition to CCAMPIS support, that are available to help low-income parents access appropriate and affordable childcare services. For example, the Child Care and Development Block Grant provides

additional support to low-income student-parents who need childcare support.

Priorities: This notice contains two absolute priorities and two competitive preference priorities. In accordance with 34 CFR 75.105(b)(2)(iv), the absolute priorities are from section 419N(d) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1070e(d). Competitive Preference Priority 1 is from the Final Supplemental Priorities and Definitions for Discretionary Grant Programs published in the **Federal Register** on March 2, 2018 (83 FR 9096) (Supplemental Priorities) and Competitive Preference Priority 2 is from the notice of final priority, published in the **Federal Register** on November 27, 2019 (*www.federalregister.gov/documents/2019/11/27/2019-25819/final-priority-for-discretionary-grant-programs*) (Opportunity Zones NFP).

Absolute Priorities: For FY 2020, and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet both priorities.

These priorities are:

Absolute Priority 1: Projects that are designed to leverage significant local or institutional resources, including in-kind contributions, to support the activities assisted under section 419N of the HEA.

Absolute Priority 2: Projects that are designed to utilize a sliding fee scale for childcare services provided under section 419N of the HEA in order to support a high number of low-income parents pursuing postsecondary education at the institution.

Competitive Preference Priorities: For FY 2020, and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 5 points to an application, depending on how well the application meets Competitive Preference Priority 1, and 3 points to an application that meets Competitive Preference Priority 2.

These priorities are:

Competitive Preference Priority 1—Empowering Families and Individuals to Choose a High-Quality Education That Meets Their Unique Needs (up to 5 points).

Projects that are designed to address increasing access to educational choice (as defined in this notice) for children in early learning settings.

Competitive Preference Priority 2—Spurring Investment in Qualified Opportunity Zones (3 points).

Under this priority, an applicant must demonstrate the following:

(a) The area in which the applicant proposes to provide services overlaps with a Qualified Opportunity Zone, as designated by the Secretary of the Treasury under section 1400Z–1 of the Internal Revenue Code (IRC). An applicant must—

(i) Provide the census tract number of the Qualified Opportunity Zone(s) in which it proposes to provide services; and

(ii) Describe how the applicant will provide services in the Qualified Opportunity Zone(s).

Application Requirements: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, applicants must meet the following application requirements from section 419N of the HEA.

An institution of higher education desiring a grant under this competition must submit an application that—

(1) Demonstrates that the institution is an eligible institution;

(2) Specifies the amount of funds requested;

(3) Demonstrates the need of low-income students at the institution for campus-based childcare services by including in the application—

(A) Information regarding student demographics;

(B) An assessment of childcare capacity on or near campus;

(C) Information regarding the existence of waiting lists for existing childcare;

(D) Information regarding additional needs created by concentrations of poverty or by geographic isolation; and

(E) Other relevant data;

(4) Contains a description of the activities to be assisted, including whether the grant funds will support an existing childcare program or a new childcare program;

(5) Identifies the resources, including technical expertise and financial support, the institution will draw upon to support the childcare program and the participation of low-income students in the program, such as accessing social services funding, using student activity fees to help pay the costs of childcare, using resources obtained by meeting the needs of parents who are not low-income students, and accessing foundation, corporate or other institutional support, and demonstrate that the use of the resources will not result in increases in student tuition;

(6) Contains an assurance that the institution will meet the childcare needs of low-income students through the provision of services, or through a contract for the provision of services;

(7) Describes the extent to which the childcare program will coordinate with the institution's early childhood education curriculum, to the extent the curriculum is available, to meet the needs of the students in the early childhood education program at the institution, and the needs of the parents and children participating in the childcare program assisted under the applicant's project;

(8) In the case of an institution seeking assistance for a new childcare program—

(A) Provides a timeline, covering the period from receipt of the grant through the provision of the childcare services, delineating the specific steps the institution will take to achieve the goal of providing low-income students with childcare services;

(B) Specifies any measures the institution will take to assist low-income students with childcare during the period before the institution provides childcare services; and

(C) Includes a plan for identifying resources needed for the childcare services, including space in which to provide childcare services, and technical assistance if necessary;

(9) Contains an assurance that any childcare facility assisted under this section will meet the applicable State or local government licensing, certification, approval, or registration requirements; and

(10) Contains a plan for any childcare facility assisted under this program to become accredited within three years of the date the institution first receives assistance under this program.

Definitions: These definitions are from the Supplemental Priorities and section 419N of the HEA.

Educational choice means the opportunity for a child or student (or a family member on their behalf) to create a high-quality personalized path for learning that is consistent with applicable Federal, State, and local laws; is in an educational setting that best meets the child's or student's needs; and, where possible, incorporates evidence-based activities, strategies, or interventions. Opportunities made available to a student through a grant program are those that supplement what is provided by a child's or student's geographically assigned school or the institution in which he or she is currently enrolled and may include one or both of the options listed below:

(1) Public educational programs or courses including those offered by traditional public schools, public charter schools, public magnet schools, public online education providers, or other public education providers.

(2) Private or home-based educational programs or courses including those offered by private schools, private online providers, private tutoring providers, community or faith-based organizations, or other private education providers.

Low income student means a student—

(1) Who is eligible to receive a Federal Pell Grant for the award year for which the determination is made; or

(2) Who would otherwise be eligible to receive a Federal Pell Grant for the award year for which the determination is made, except that the student fails to meet the requirements of—

(i) 20 U.S.C. 1070a(c)(1) because the student is enrolled in a graduate or first professional course of study; or

(ii) 20 U.S.C. 1091(a)(5) because the student is in the United States for a temporary purpose.

Program Authority: 20 U.S.C. 1070e.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The Supplemental Priorities.

Note: Because there are no program-specific regulations for the CCAMPIS Program, applicants are encouraged to carefully read the authorizing statute: Title IV, part A, subpart 7, section 419N of the HEA (20 U.S.C. 1070e).

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $25,500,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent fiscal years from the list of unfunded applications from this competition.

Estimated Range of Awards: $30,000 to $375,000.

Estimated Average Size of Awards: $184,782.

Maximum Award: In accordance with section 419N(b)(2)(A) of the HEA, the maximum annual amount an applicant may receive under this program is one percent of the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution for FY 2019. In the event that an applicant's maximum award amount is lower than the statutory minimum award of $30,000, the grant will be $30,000 for a single budget period of 12 months.

Estimated Number of Awards: 138.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* Institutions of higher education that awarded a total of $250,000 or more of Federal Pell Grant funds during FY 2019 to students enrolled at the institution.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contains requirements and information on how to submit an application.

2. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make awards by the end of FY 2020.

3. *Funding Restrictions:* Funding restrictions are outlined in section 419N(b)(2)(B) of the HEA. We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative, Part III of the application, is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative, which includes the budget narrative, to no more than 50 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins.
- Double-space all text in the application narrative, and single-space titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a 12-point font.
- Use an easily readable font such as Times New Roman, Courier, Courier New, or Arial.

The recommended 50-page limit does not apply to Part I, the Application for Federal Assistance cover sheet (SF 424); Part II, the Budget Information Summary form (ED Form 524); Part III, the CCAMPIS Program Profile form and the one-page Project Abstract form; or Part IV, the assurances and certifications. The recommended page limit also does not apply to a table of contents, which you should include in the application narrative. You must include your complete response to the selection criteria in the application narrative.

We recommend that any application addressing the competitive preference priorities include no more than three additional pages for each priority.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from section 419N of the HEA and 34 CFR 75.210 and are listed below.

We will award up to 100 points to an application under the selection criteria and up to 8 additional points to an application under the competitive preference priorities, for a total score of up to 108 points. The maximum number of points available for each criterion is indicated in parentheses.

(a) *Need for the project.* (30 points)

In determining the need for the proposed project, the Secretary considers the extent to which the applicant demonstrates, in its application, the need for campus-based childcare services for low-income students, by including the following (see section 419N(c)(3) of the HEA):

(i) Information regarding student demographics.

(ii) An assessment of childcare capacity on or near campus.

(iii) Information regarding the existence of waiting lists for existing childcare.

(iv) Information regarding additional needs created by concentrations of poverty or by geographic isolation.

(v) Other relevant data.

(b) *Quality of project design.* (25 points)

In determining the quality of the design of the proposed project, the Secretary considers the following:

(i) The extent to which the applicant describes in its application the activities to be assisted, including whether the grant funds will support an existing childcare program or a new childcare program (see section 419N(c)(4) of the HEA).

(ii) The extent to which the services to be provided by the proposed project are focused on those with greatest needs (see 34 CFR 75.210(d)(3)(xi)).

Note: When describing how the project is focused on those with greatest needs, applicants are encouraged to include, in their assessment of focus on service of those with the greatest needs, the extent to which services are available during all hours that classes are in session, including evenings and weekends, to part-time students and to students who need only emergency drop-in childcare in the event that regularly scheduled childcare is unexpectedly unavailable.

(iii) The likely impact of the services to be provided by the proposed project on the intended recipients of those services (see 34 CFR 75.210(d)(3)(iv)).

(iv) The extent to which the childcare program will coordinate with the institution's early childhood education curriculum, to the extent the curriculum is available, to meet the needs of the students in the early childhood education program at the institution, and the needs of the parents and children participating in the childcare program assisted under this section (see section 419N(c)(7) of the HEA).

(v) The extent to which the proposed project encourages parental involvement (see 34 CFR 75.210(c)(2)(xix)).

(vi) If the applicant is requesting grant assistance for a new childcare program (see section 419N(c)(8) of the HEA)—

(1) The extent to which the applicant's timeline, covering the period from receipt of the grant through the provision of the childcare services, delineates the specific steps the institution will take to achieve the goal of providing low-income students with childcare services;

(2) The extent to which the applicant specifies in its application the measures the institution will take to assist low-income students with childcare during the period before the institution provides childcare services; and

(3) The extent to which the application includes a plan for identifying resources needed for the childcare services, including space in which to provide childcare services and technical assistance if necessary.

(vii) The extent to which the proposed project represents an exceptional approach to the priority or priorities established for the competition. (34 CFR 75.210(c)(2)(XV)).

(c) *Quality of management plan.* (25 points)

In determining the quality of the management plan for the proposed project, the Secretary considers the following:

(i) The extent to which the application includes a management plan that describes the resources, including technical expertise and financial support, the institution will draw upon to support the childcare program and the participation of low-income students in the program, such as accessing social services funding, using student activity fees to help pay the costs of childcare, using resources obtained by meeting the needs of parents who are not low-income students, and accessing foundation, corporate or other institutional support, and demonstrates that the use of the resources will not result in increases in student tuition (see section 419N(c)(5) of the HEA).

(ii) The qualifications, including relevant training and experience, of key project personnel (see 34 CFR 75.210(e)(3)(ii)).

(iii) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (see 34 CFR 75.210(g)(2)(i)).

(d) *Quality of project evaluation.* (15 points)

In determining the quality of the project evaluation, the Secretary considers the following:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project (see 34 CFR 75.210(h)(2)(i)).

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible (see 34 CFR 75.210(h)(2)(iv)).

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes (see 34 CFR 75.210(h)(2)(vi)).

(e) *Adequacy of resources.* (5 points)

In determining the adequacy of resources for the proposed project, the Secretary considers the following:

(i) The extent to which the budget is adequate to support the proposed project (see 34 CFR 75.210(f)(2)(iii)).

(ii) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits (see 34 CFR 75.210(f)(2)(v)).

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

For this competition, a panel of non-Federal readers will review each application in accordance with the selection criteria and Competitive Preference Priority 1 and 2. The individual scores of the reviewers will be added and the sum divided by the number of reviewers to determine the peer review score received in the review process.

If there are insufficient funds for all applications with the same total scores, the Secretary will choose among the tied applications so as to serve geographical areas that have been underserved by the CCAMPIS Program.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition, the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed

by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we will notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we will notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works.

Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* The success of the CCAMPIS Program will be measured by the postsecondary persistence and degree completion rates of the CCAMPIS Program participants. All CCAMPIS Program grantees will be required to submit an annual performance report documenting the persistence and degree attainment of their participants. Although students may choose to use childcare services at different points in their college enrollment, the goal is to measure the outcomes of student-parents based on their completion of their program within 150 percent or 200 percent of the published program length. The cohort model of evaluation will track the level of utilization by a student-parent throughout their enrollment at the institution and will provide results based on the long-term academic success of the student-parent. The Department will aggregate the data provided in the annual performance reports from all grantees to determine the accomplishment level. The CCAMPIS reporting data collection is moving towards a semester-to-semester cohort model. This will not increase public reporting burden as CCAMPIS grantees are gathering and maintaining the data needed in completing and reviewing the collection of information currently.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

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

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

Robert L. King,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2020–17008 Filed 8–5–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho Cleanup Project

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open virtual meeting.

SUMMARY: This notice announces an online virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho Cleanup Project (ICP). The Federal Advisory Committee Act requires that public notice of this online virtual meeting be announced in the **Federal Register**.

DATES: Thursday, August 27, 2020; 8:00 a.m.—12:30 p.m.

The opportunities for public comment is at 11:00 a.m. MT.

This time is subject to change; please contact the Federal Coordinator (below) for confirmation of times prior to the meeting.

ADDRESSES: This meeting will be held virtually via Zoom. To attend, please contact Jordan Davies, ICP Citizens Advisory Board (CAB) support staff, by email *jdavies@northwindgrp.com* or phone (720) 452–7379, no later than 5:00 p.m. MT on Wednesday, August 26, 2020.

To Sign Up for Public Comment: Please contact Jordan Davies by email, *jdavies@northwindgrp.com,* no later than 5:00 p.m. MT on Wednesday, August 26, 2020.

FOR FURTHER INFORMATION CONTACT: Danielle Miller, Federal Coordinator, U.S. Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS–1203, Idaho Falls, Idaho 83415. Phone (208) 526–5709; or email: *millerdc@id.doe.gov* or visit the Board's internet home page at: *https://www.energy.gov/em/icpcab/.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Topics (agenda topics may change up to the day of the meeting; please contact Danielle Miller for the most current agenda):

- Recent Public Outreach
- ICP Reconstitution Plan and Employee Safety
- ICP Overview
- Update on Integrated Waste Treatment Unit (IWTU)

Public Participation: The online virtual meeting is open to the public. Written statements may be filed with the Board either before or after the meeting by sending them to Jordan Davies at the aforementioned email address. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Danielle Miller, Federal Coordinator, at the address and telephone number listed above. Minutes will also be available at the following website: *https://www.energy.gov/em/icpcab/listings/cab-meetings.*

Signed in Washington, DC on July 31, 2020.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2020–17148 Filed 8–5–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–500–000]

Black Marlin Pipeline LLC; Notice of Request Under Blanket Authorization

Take notice that on July 24, 2020, Black Marlin Pipeline LLC (Black Marlin), 2800 Post Oak Boulevard, Houston, Texas 77056, filed in the above referenced docket, a prior notice request pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA) and Columbia's blanket certificate issued in Docket No. CP89–2115–000, for authorization to abandon in place approximately 23.86 miles of 16-inch-diameter pipeline located in the federal waters of the Gulf of Mexico, Offshore Texas. Black Marlin states that the facilities proposed for abandonment have not provided service to any customers since November 2016 and are not covered under any firm or interruptible transportation contracts. Thus, they state that the proposed abandonment will have no impact on the daily design capacity of, or the operating conditions of, Black Marlin's pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

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 FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this prior notice request should be directed to Sheryl Johnson-Schumack, Regulatory Analyst Lead, Black Marlin Pipeline LLC, 2800 Post Oak Boulevard, Houston, Texas 77056, or call (713) 215–3449.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene, or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions using the ''eFiling'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Dated: July 31, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–17189 Filed 8–5–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD20–25–000]

Electronic Document Management System (eLibrary) Enhancements; Notice Announcing Release of Modernized eLIBRARY System

The Federal Energy Regulatory Commission (Commission), hereby gives notice announcing upcoming enhancements to its Electronic Document Management System (eLibrary), that will be available the week of August 3. The Commission plans to upgrade its existing system with newer, more robust and user-friendly technology. Ultimately, the new system will provide users with an improved user interface, more reliable search capabilities and greater system stability.

This version includes, but is not limited to the following enhancements:

- A modern look and feel to the eLibrary site
- Improved navigation and consolidated search screens
- Removal of redundant features
- Improved search accuracy and relevance
- On-Demand PDF generation for files in an accession
- Multiple file zip and download from the search results
- Improved reliability

Please see *https://www.ferc.gov/* for additional details on FERC's modernized eLibrary system, including additional information on file formats, text searchable versus image formats, file names, security, et al.

Dated: July 31, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–17193 Filed 8–5–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–2118–007; ER10–1846–015; ER10–1849–021; ER10–1852–042; ER10–1887–021; ER10–1951–024; ER10–1952–020; ER10–1961–020; ER10–2551–016; ER10–2720–022; ER11–2642–016; ER11–4428–022; ER11–4462–045; ER12–1228–022; ER12–1880–021; ER12–2227–021; ER12–569–022; ER12–895–020; ER13–2474–016; ER13–712–023; ER14–2707–017; ER14–2708–018; ER14–2709–017; ER14–2710–017; ER15–1925–015; ER15–2676–014; ER15–30–015; ER15–58–015; ER16–1440–011; ER16–1672–012; ER16–2190–011; ER16–2191–011; ER16–2240–011; ER16–2241–010; ER16–2275–010; ER16–2276–010; ER16–2297–010; ER16–2453–012; ER17–2152–008; ER17–838–020; ER18–1981–006; ER18–2003–006; ER18–2032–006; ER18–2066–003; ER18–2067–004; ER18–2182–006; ER18–2314–003; ER18–882–007;ER19–1128–001; ER19–2495–002; ER19–2513–002.

Applicants: Armadillo Flats Wind Project, LLC, Blackwell Wind, LLC, Brady Interconnection, LLC, Brady Wind, LLC, Breckinridge Wind Project, LLC, Cedar Bluff Wind, LLC, Chaves County Solar, LLC, Cimarron Wind Energy, LLC, Cottonwood Wind Project, LLC, Day County Wind, LLC, Elk City Wind, LLC, Elk City Renewables II, LLC, Ensign Wind, LLC, Florida Power & Light Company, FPL Energy Cowboy Wind, LLC, FPL Energy South Dakota Wind, LLC, Gray County Wind Energy, LLC, High Majestic Wind Energy Center, LLC, High Majestic Wind II, LLC, Kingman Wind Energy I, LLC, Kingman Wind Energy II, LLC, Lorenzo Wind, LLC, Mammoth Plains Wind Project, LLC, Minco Wind, LLC, Minco Wind II, LLC, Minco Wind III, LLC, Minco Wind IV, LLC, Minco IV & V Interconnection, LLC, Minco Wind V, LLC, Ninnescah Wind Energy, LLC, NEPM II, LLC, NextEra Energy Marketing, LLC, NextEra Energy Services Massachusetts, LLC, Osborn Wind Energy, LLC, Palo Duro Wind Energy, LLC, Palo Duro Wind Interconnection Services, LLC, Pratt Wind, LLC, Roswell Solar, LLC, Rush Springs Energy Storage, LLC, Rush Springs Wind Energy, LLC, Seiling Wind, LLC, Seiling Wind II, LLC, Seiling Wind Interconnection Services, LLC, Sholes Wind Energy, LLC, Steele Flats Wind Project, LLC, Wessington Springs Wind, LLC, Wildcat Ranch Wind Project, LLC, Wilton Wind Energy II, LLC.

Description: Notification of Change in Status of NextEra Resources Entities.

Filed Date: 7/30/20.

Accession Number: 20200730–5260.

Comments Due: 5 p.m. ET 8/20/20.

Docket Numbers: ER19–1935–003.

Applicants: UNS Electric, Inc.

Description: Compliance filing: Errata to Order No. 845 Compliance Filing to be effective 5/22/2019.

Filed Date: 7/31/20.

Accession Number: 20200731–5150.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–1703–000.

Applicants: Capital Energy PA LLC.

Description: Second Supplement (Ownership Details) to April 30, 2020 Capital Energy PA LLC tariff filing. Also submitted Third Supplement (Asset Appendix).

Filed Date: 7/22/20; 7/31/20.

Accession Number: 20200722–5176, 20200731–5132.

Comments Due: 5 p.m. ET 8/10/20.

Docket Numbers: ER20–2559–000.

Applicants: Ameren Illinois Company, Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2020–07–30_SA 2880 Att A-Proj Spec No. 5 WVPA–CBEC-Kewanee Burne to be effective 9/29/2020.

Filed Date: 7/30/20.

Accession Number: 20200730–5161.

Comments Due: 5 p.m. ET 8/20/20.

Docket Numbers: ER20–2560–000.

Applicants: Sabine Cogen, LP.

Description: Tariff Cancellation: Cancellation Filing to be effective 7/31/2020.

Filed Date: 7/30/20.

Accession Number: 20200730–5165.

Comments Due: 5 p.m. ET 8/20/20.

Docket Numbers: ER20–2561–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: First Revised ISA, Service Agreement No. 2637; Queue No. AF1–177 to be effective 6/30/2020.

Filed Date: 7/30/20.

Accession Number: 20200730–5168.

Comments Due: 5 p.m. ET 8/20/20.

Docket Numbers: ER20–2562–000.

Applicants: Entergy Arkansas, LLC, Entergy Mississippi, LLC, Entergy New

Orleans, LLC, Entergy Texas, Inc., Entergy Louisiana, LLC.

Description: § 205(d) Rate Filing: Entergy OpCos Reactive Power Update to be effective 8/1/2020.

Filed Date: 7/30/20.

Accession Number: 20200730–5181.

Comments Due: 5 p.m. ET 8/20/20.

Docket Numbers: ER20–2563–000.

Applicants: American Electric Power Service Corporation, Ohio Power Company, AEP Ohio Transmission Company, Inc., PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: AEP submits ILDSA, SA No. 1336 and Winesburg FA to be effective 9/29/2020.

Filed Date: 7/30/20.

Accession Number: 20200730–5197.

Comments Due: 5 p.m. ET 8/20/20.

Docket Numbers: ER20–2564–000.

Applicants: Duke Energy Carolinas, LLC.

Description: § 205(d) Rate Filing: DEC–WCU Reimbursement Agreement RS–545 to be effective 10/1/2020.

Filed Date: 7/30/20.

Accession Number: 20200730–5205.

Comments Due: 5 p.m. ET 8/20/20.

Docket Numbers: ER20–2565–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of WMPA SA No. 5318; Queue No. AD2–164 to be effective 6/29/2020.

Filed Date: 7/30/20.

Accession Number: 20200730–5209.

Comments Due: 5 p.m. ET 8/20/20.

Docket Numbers: ER20–2566–000

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of WMPA SA No. 5042; Queue No. AC2–045 to be effective 6/29/2020.

Filed Date: 7/30/20.

Accession Number: 20200730–5210.

Comments Due: 5 p.m. ET 8/20/20.

Docket Numbers: ER20–2567–000.

Applicants: Peetz Logan Interconnect, LLC.

Description: Baseline eTariff Filing: Peetz Logan Interconnect, LLC, Peetz Table, and Logan Wind SFA to be effective 8/28/2020.

Filed Date: 7/30/20.

Accession Number: 20200730–5219.

Comments Due: 5 p.m. ET 8/20/20.

Docket Numbers: ER20–2568–000

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of ISA, SA No. 3050; Queue No. S38 to be effective 6/2/2019.

Filed Date: 7/30/20.

Accession Number: 20200730–5220.

Comments Due: 5 p.m. ET 8/20/20.

Docket Numbers: ER20–2569–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: Q2 2020 Quarterly Filing of City and County of San Francisco's WDT SA (SA 275) to be effective 6/30/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5007.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2570–000.

Applicants: Midcontinent Independent System Operator, Inc, Ameren Illinois Company.

Description: § 205(d) Rate Filing: 2020–07–31_SA 3028 Ameren IL-Prairie Power Project#15 St. David Meter to be effective 9/30/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5063.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2571–000.

Applicants: Midcontinent Independent System Operator, Inc, Duke Energy Indiana, LLC.

Description: § 205(d) Rate Filing: 2020–07–31_Attachment O Duke Indiana Depreciation Rate Filing to be effective 8/1/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5066.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2572–000.

Applicants: Central Maine Power Company, The Connecticut Light and Power Company, NSTAR Electric Company, Public Service Company of New Hampshire, Fitchburg Gas and Electric Light Company, Green Mountain Power Corporation, Maine Electric Power Company, New England Power Company, New Hampshire Transmission, LLC, The United Illuminating Company, Unitil Energy Systems, Inc., Vermont Transco LLC, Versant Power.

Description: Order No. 864 Compliance Filing of the New England Transmission Owners.

Filed Date: 7/30/20.

Accession Number: 20200730–5262.

Comments Due: 5 p.m. ET 8/20/20.

Docket Numbers: ER20–2573–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revisions to OATT and OA re Enhancements to PJM Dispatch and Pricing to be effective 10/15/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5104.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2574–000.

Applicants: Southwest Power Pool, Inc., American Electric Power Service Corporation.

Description: Compliance filing: AEP on behalf of affilate AEP West Op Cos Order 864 Compliance Filing to be effective 1/27/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5106.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2575–000.

Applicants: American Electric Power Service Corporation, Southwest Power Pool, Inc.

Description: Compliance filing: AEP on behalf of affilate Transource Missouri Order No. 864 Compliance Filing to be effective 1/27/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5110.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2576–000.

Applicants: Holloman Lessee LLC.

Description: Baseline eTariff Filing: Reactive Power Compensation Filing to be effective 9/29/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5113.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2577–000.

Applicants: Southwest Power Pool, Inc., American Electric Power Service Corporation.

Description: Compliance filing: AEP on behalf of affilate AEP West Trans Cos. Order No. 864 Compliance Filing to be effective 1/27/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5117.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2578–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Demand Response Programs and BTM Generation for Resource Adequacy to be effective 10/1/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5127.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2579–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2020–07–31_SA 2927 Duke Energy-Duke Energy 1st Rev GIA (J453 J1189) to be effective 7/17/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5128.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2580–000.

Applicants: Southwest Power Pool, Inc., Western Area Power Administration.

Description: § 205(d) Rate Filing: Western Area Power Administration—UGP Region Formula Rate to be effective 10/1/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5136.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2581–000.

Applicants: New England Power Pool Participants Committee.

Description: § 205(d) Rate Filing: August 2020 Membership Filing to be effective 7/1/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5142.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2582–000.

Applicants: Transource West Virginia, LLC, American Electric Power Service Corporation, PJM Interconnection, L.L.C.

Description: Compliance filing: Transource WV submits Revisions to OATT, Att. H–26 re: Order 864 to be effective 1/27/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5143.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2583–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: 2nd Quarter 2020 Update to OA and RAA Membership Lists to be effective 6/30/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5144.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2584–000.

Applicants: Transource Maryland, LLC, American Electric Power Service Corporation, PJM Interconnection, L.L.C.

Description: Compliance filing: Transource MD submits Revisions to OATT, Att. H–30A re: Order 864 to be effective 1/27/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5145.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2585–000.

Applicants: Transource Pennsylvania, LLC, American Electric Power Service Corporation, PJM Interconnection, L.L.C.

Description: Compliance filing: Transource PA submits Revisions to OATT, Att. H–29A re: Order 864 to be effective 1/27/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5148.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2586–000.

Applicants: North Fork Ridge Wind, LLC.

Description: Baseline eTariff Filing: Market-Based Rates Tariff Application to be effective 8/1/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5151.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2587–000.

Applicants: Kings Point Wind, LLC.

Description: Baseline eTariff Filing: Market-Based Rates Tariff Application to be effective 10/1/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5153.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2588–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of WMPA, SA No. 4820, Queue No. AC1–016 re: withdrawal to be effective. 6/30/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5157.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2589–000.

Applicants: WPPI Energy.

Description: Baseline eTariff Filing: baseline new to be effective 10/1/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5158.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2590–000.

Applicants: Basin Electric Power Cooperative.

Description: § 205(d) Rate Filing: Basin Electric Market Based Rate Application to be effective 12/31/9998.

Filed Date: 7/31/20.

Accession Number: 20200731–5164.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2591–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2020–07–31_Tariff revisions regarding Aggregator of Retail Customers (ARCs) to be effective 9/30/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5167.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2592–000.

Applicants: WSPP Inc.

Description: § 205(d) Rate Filing: List of Members Update 2020 to be effective 7/28/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5169.

Comments Due: 5 p.m. ET 8/21/20.

Docket Numbers: ER20–2593–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Revised LGIP and SGIP to be effective 9/30/2020.

Filed Date: 7/31/20.

Accession Number: 20200731–5176.

Comments Due: 5 p.m. ET 8/21/20.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC20–14–000.

Applicants: I Squared Capital.

Description: Self-Certification of I Squared Capital.

Filed Date: 7/30/20.

Accession Number: 20200730–5244.

Comments Due: 5 p.m. ET 8/20/20.

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 31, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–17191 Filed 8–5–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL20–59–000]

Duquesne Light Company v. PJM Interconnection, L.L.C.; Notice of Complaint

Take notice that on July 30, 2020, pursuant to sections 306, and 309 of the Federal Power Act, 16 U.S.C. 825e, and 825h, and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Duquesne Light Company (Complainant) filed a formal complaint against PJM Interconnection, L.L.C., (PJM or Respondent) requesting that the Commission direct PJM to refrain from submitting proposed amendments to the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. that it has determined violate the Consolidated Transmission Owners Agreement and Commission precedent, all as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts listed for Respondent in the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of

the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically 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.

Comment Date: 5:00 p.m. Eastern Time on August 19, 2020.

Dated: July 31, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–17192 Filed 8–5–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP20–1051–000.
Applicants: Ruby Pipeline, L.L.C.
Description: § 4(d) Rate Filing: FLU and EPC Recomputation Update Filing to be effective 9/1/2020.
Filed Date: 7/30/20.
Accession Number: 20200730–5042.
Comments Due: 5 p.m. ET 8/11/20.

Docket Numbers: RP20–1052–000.
Applicants: Sierrita Gas Pipeline LLC.
Description: § 4(d) Rate Filing: Quarterly FL&U Filling to be effective 9/1/2020.
Filed Date: 7/30/20.
Accession Number: 20200730–5072.
Comments Due: 5 p.m. ET 8/11/20.

Docket Numbers: RP20–1053–000.
Applicants: Wyoming Interstate Company, L.L.C.
Description: § 4(d) Rate Filing: Update of FLU Reimbursement Percentages to be effective 9/1/2020.
Filed Date: 7/30/20.
Accession Number: 20200730–5117.
Comments Due: 5 p.m. ET 8/11/20.

Docket Numbers: RP20–1054–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: REX 2020–07–30 Non-Conforming Negotiated Rate Amendment to be effective 8/1/2020.
Filed Date: 7/30/20.
Accession Number: 20200730–5130.
Comments Due: 5 p.m. ET 8/11/20.

Docket Numbers: RP20–1055–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Vermillion Power NR/NC Agreement Filing to be effective 9/1/2020.
Filed Date: 7/30/20.
Accession Number: 20200730–5137.
Comments Due: 5 p.m. ET 8/11/20.

Docket Numbers: RP20–1056–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: § 4(d) Rate Filing: Negotiated Rates—Cherokee AGL—Replacement Shippers—Aug 2020 to be effective 8/1/2020.
Filed Date: 7/30/20.
Accession Number: 20200730–5152.
Comments Due: 5 p.m. ET 8/11/20.

Docket Numbers: RP20–1057–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: § 4(d) Rate Filing: SS–2 Clean-Up Filing to be effective 5/1/2020.
Filed Date: 7/31/20.
Accession Number: 20200731–5012.
Comments Due: 5 p.m. ET 8/12/20.

Docket Numbers: RP20–1058–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Non-Conforming Filing—Boston Gas contract 9221 to be effective 8/1/2020.
Filed Date: 7/31/20.
Accession Number: 20200731–5013.
Comments Due: 5 p.m. ET 8/12/20.

Docket Numbers: RP20–1059–000.
Applicants: Midcontinent Express Pipeline LLC.
Description: § 4(d) Rate Filing: Disposition of Net Cashout Balance Filing to be effective 9/1/2020.
Filed Date: 7/31/20.
Accession Number: 20200731–5014.
Comments Due: 5 p.m. ET 8/12/20.

Docket Numbers: RP20–1060–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Columbia Gas Section 4 Rate Case (1 of 4) to be effective 9/1/2020.
Filed Date: 7/31/20.
Accession Number: 20200731–5015.
Comments Due: 5 p.m. ET 8/12/20.

Docket Numbers: RP20–1061–000.
Applicants: Kinder Morgan Louisiana Pipeline LLC.
Description: § 4(d) Rate Filing: Modification to Tariff Filing to be effective 9/1/2020.
Filed Date: 7/31/20.
Accession Number: 20200731–5020.
Comments Due: 5 p.m. ET 8/12/20.

Docket Numbers: RP20–1062–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Neg Rate Agmt (Southern 52143) to be effective 8/1/2020.
Filed Date: 7/31/20.
Accession Number: 20200731–5054.
Comments Due: 5 p.m. ET 8/12/20.

Docket Numbers: RP20–1063–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Atlanta Gas 8438 releases eff 8–1–2020) to be effective 8/1/2020.
Filed Date: 7/31/20.
Accession Number: 20200731–5056.
Comments Due: 5 p.m. ET 8/12/20.

Docket Numbers: RP20–1064–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: Abandonment of X–48 in Volume No.2 to be effective 9/1/2020.
Filed Date: 7/31/20.
Accession Number: 20200731–5074.
Comments Due: 5 p.m. ET 8/12/20.

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.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–17194 Filed 8–5–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–490–000]

Columbia Gulf Transmission, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Mainline 300 Replacement Project, and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment that will discuss the environmental impacts of the Mainline 300 Replacement Project (Project) involving the replacement of segments of an existing natural gas transmission pipeline in Menifee and Montgomery Counties, Kentucky. The Commission will use this EA in its decision-making process to determine whether the Project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the Project. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires the Commission to discover concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of issues to address in the EA. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on August 31, 2020. Comments may be submitted in written form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

You can make a difference by submitting your specific comments or concerns about the Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Commission staff will consider all written comments during the preparation of the EA.

If you sent comments on this project to the Commission before the opening of this docket on June 30, 2020, you will need to file those comments in Docket No. CP20–490–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the Project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law.

Columbia Gulf Transmission, LLC (Columbia Gulf) provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC website (*www.ferc.gov*) under the natural gas Landowner Topics link.

Public Participation

The Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the Project docket number CP20–490–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Summary of the Proposed Project

Due to increased population density in the area along certain discrete sections of Mainline 300, Columbia Gulf is required, pursuant to Part 192 of the U.S. Department of Transportation (DOT) regulations to remediate the pipeline and replace certain segments of the pipeline. Columbia Gulf proposes to abandon and replace two segments of pipeline, totaling approximately 0.14 mile of pipeline in Montgomery and Menifee Counties, Kentucky. The new replacement pipeline would retain the maximum allowable operating pressure (MAOP) of 1,050 pounds per square inch gauge. The replacement pipeline segments would be abandoned by removal and the new pipeline would be installed in its place.

The Project would involve the construction and operation of the following facilities:

- Replacement of approximately 760 feet of existing 36-inch-diameter pipeline, with approximately 760 feet of new, 36-inch-diameter natural gas transmission pipeline from milepost 6.76 to milepost 6.90; and,
- Replacement of approximately 15 feet of existing 36-inch-diameter pipeline, with approximately 15 feet of new, 36-inch-diameter natural gas transmission pipeline post 6.91 to milepost 6.91.

The general location of the Project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would require the use of approximately 9.9 acres of land, of which 3.5 acres would be permanently affected during operation of the Project. The land requirements of the Project include the existing permanent right-of-way, temporary construction right-of-way/temporary workspace areas, and temporary access roads. Construction of the Project would result in both temporary and permanent land disturbance. Following construction, land affected during construction would be restored to preconstruction contours.

The EA Process

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed Project under these general headings:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise;
- public safety; and
- cumulative impacts

Commission staff will also evaluate reasonable alternatives to the Project or portions of the Project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present Commission staffs' independent analysis of the issues. The EA will be available in electronic format in the public record through eLibrary[2] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the EA is issued. The EA may be issued for an allotted public comment period. Commission staff will consider all comments on the EA before making recommendations to the Commission. To ensure Commission staff have the opportunity to address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] The EA for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for Project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If the Commission issues the EA for an allotted public comment period, a *Notice of Availability* of the EA will be sent to the environmental mailing list and will provide instructions to access the electronic document on the FERC's website (*www.ferc.gov*). If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please return the attached ''Mailing List Update Form'' appendix 2.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* CP20–490). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission,

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Dated: July 31, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–17190 Filed 8–5–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–496–000]

Andalusian Energy, LLC; Notice of Petition for Declaratory Order

Take notice that on July 20, 2020, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, Andalusian Energy, LLC (Andalusian) filed a petition for declaratory order requesting the Commission issue an order stating that Andalusian's: (1) Proposed compressed natural gas (CNG) production facility; (2) the docks from which Andalusian will export the CNG; and (3) Andalusian's proposal to construct an on-site truck fueling station, a bunkering pipeline to transport end-use fuel to vessels, and provide an industrial fueling service to industrial customers in Texas are not subject to the Commission's jurisdiction under section 3 or section 7 of the Natural Gas Act, 15 U.S.C. 717b and 717f (2018).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* 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.

Comment Date: 5:00 p.m. Eastern time on August 20, 2020.

Dated: July 31, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–17188 Filed 8–5–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–6–004]

FirstEnergy Service Company; Notice of Filing

Take notice that on July 30, 2020, FirstEnergy Service Company submitted a Notice of Change in Circumstances in compliance with the Federal Energy Regulatory Commission (Commission), in the above captioned proceeding, on February 2, 2018.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

In addition to publishing the full text of this document in the **Federal Register**, The Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on August 20, 2020.

Dated: July 31, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–17183 Filed 8–5–20; 8:45 am]

BILLING CODE 6717–01–P

[1] FirstEnergy Corp., 162 FERC ¶ 61,087 (2018) (2018 Waiver Order).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–471–000]

Texas Eastern Transmission LP; Notice of Schedule for Environmental Review of the Bailey East Mine Panel 12j Project

On June 1, 2020, Texas Eastern Transmission LP (Texas Eastern) filed an application in Docket No. CP20–471–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. The proposed project, known as the Bailey East Mine Panel 12J Project (Project), would ensure safe and

efficient operation of existing Texas Eastern pipeline facilities for the duration of planned longwall mining activities.

On June 12, 2020, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA October 19, 2020
90-day Federal Authorization Decision Deadline January 17, 2021

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Texas Eastern proposes to excavate, elevate, and replace sections of four natural gas transmission pipelines due to longwall mining activities in Marshall County, West Virginia. The project would allow for safe and efficient operation of Texas Eastern's existing pipeline facilities for the duration of the longwall mining activities planned by CONSOL Energy Inc. in the area beneath Texas Eastern's pipelines. The four mainline segments will remain in-service and be elevated using sandbags and skids for about 2 years until the longwall mining activities have completed and any potential ground subsidence has settled.

Background

On July 13, 2020, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Bailey East Mine Panel 12J Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the NOI, the Commission received no comments to date. All substantive comments will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP20–471), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: July 31, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–17185 Filed 8–5–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5737–007]

Santa Clara Valley Water District; Notice of Reservoir Drawdown and Operations Plan Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric plan has been filed with the Commission and is available for public inspection:

a. *Filing Type:* Reservoir Drawdown and Operations Plan.

b. *Project No:* 5737–007.

c. *Date Filed:* July 27, 2020.

d. *Applicant:* Santa Clara Valley Water District.

e. *Name of Project:* Anderson Dam Hydroelectric Project.

f. *Location:* The project is located on Coyote Creek in Santa Clara County, CA.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Christopher Hakes, (408) 630–3796, *chakes@valleywater.org.*

i. *FERC Contact:* Jennifer Ambler, (202) 502–8586, *jennifer.ambler@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* August 17, 2020.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P–5737–007. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* On February 20, 2020, Commission staff required Santa Clara Valley Water District (exemptee) to implement dam safety interim risk reduction measures at the Anderson Dam Project including: Holding the reservoir elevation at or below 565 feet (ft); requiring the exemptee to begin by October 1, 2020 a drawdown of the reservoir to elevation 488 ft; and expediting the construction of a low-level outlet at the dam. These measures are required to reduce seismic instability risks until a larger retrofit of the dam can be implemented. The exemptee proposes in its July 27, 2020 Reservoir Drawdown and Operations

Plan to begin the drawdown of the reservoir on October 1, 2020 with the reservoir level of 488 ft expected to be reached by April 2021. The proposed low-level outlet works would be located in proximity to the existing outlet at the base of Anderson Dam with construction proposed to start in early 2021 and completed in late 2023. The exemptee also proposes, as mitigation measures, the following actions, including some downstream of the Anderson Dam project: Reservoir rim monitoring and channel stabilization; reconstruct the downstream Coyote Percolation Dam to withstand higher flows from the proposed low-level outlet; extend the Cross Valley Pipeline and add chillers to supplement water to Coyote Creek to support groundwater recharge and fisheries; relocate and rescue steelhead; and build flood walls, and elevate or acquire property that have the potential to be affected by flows from the operation of the proposed low-level outlet.

l. *Locations of the Plan:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must: (1) Bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: July 31, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–17184 Filed 8–5–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2669–089]

Bear Swamp Power Company, LLC; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for license for the Bear Swamp Project, located on the Deerfield River, in Berkshire and Franklin Counties, Massachusetts, and has prepared a Final Environmental Assessment (FEA) for the project.

The FEA contains staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the FEA via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

You may also register online at *https://ferconline.ferc.gov/eSubscription.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact Amy Chang at (202) 502–8250, or at *amy.chang@ferc.gov.*

Dated: July 31, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–17187 Filed 8–5–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10012–01–Region 5]

Public Water System Supervision Program Approval for the State of Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) tentatively approved a revision to the state of Illinois Public Water System Supervision Program under the federal Safe Drinking Water Act (SDWA) by adopting the Consumer Confidence Report Rule. The EPA has determined this revision is no less stringent than the corresponding federal regulation. Therefore, the EPA intends to approve this revision to the state of Illinois Public Water System Supervision Program, thereby giving Illinois Environmental Protection Agency primary enforcement responsibility for this regulation.

DATES: Any interested party may request a public hearing on this determination. A request for a public hearing must be submitted by September 8, 2020. The EPA Region 5 Administrator may deny frivolous or insubstantial requests for a hearing. However, if a substantial request for a public hearing is made by September 8, 2020, EPA Region 5 will hold a public hearing, and a notice of such hearing will be published in the **Federal Register** and a newspaper of general circulation. Any request for a public hearing shall include the following information: the name, address, and telephone number of the individual, organization, or other entity requesting a hearing; a brief statement of the requesting person's interest in the

Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity. If EPA Region 5 does not receive a timely and appropriate request for a hearing and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on September 8, 2020 and no further public notice will be issued.

ADDRESSES: All documents relating to this determination are available for inspection at the following offices between the hours of 9 a.m. and 4 p.m., Monday through Friday, except for official holidays and unless the offices are inaccessible due to COVID 19: Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794–9276; and the U.S. Environmental Protection Agency Region 5, Ground Water and Drinking Water Branch (WG–15J), 77 W Jackson Blvd., Chicago, IL 60604. Requestors can email Cynthia Meyer, *meyer.cynthia@epa.gov,* to receive documents related to this determination if offices are inaccessible.

FOR FURTHER INFORMATION CONTACT: Cynthia Meyer, EPA Region 5, Ground Water and Drinking Water Branch, at the address given above, by telephone at 312–886–5868, or at *meyer.cynthia@epa.gov.*

Authority: Section 1413 of the Safe Drinking Water Act, 42 U.S.C. 300g–2, and the federal regulations implementing Section 1413 of the Act set forth at 40 CFR part 142.

Dated: July 30, 2020.

Kurt Thiede,

Regional Administrator, Region 5.

[FR Doc. 2020–17162 Filed 8–5–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0308; FRL–10012–80]

Tetrachlorvinphos; Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations and Amend Registrations To Terminate Certain Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by the registrants to voluntarily cancel their registrations of certain products containing the pesticide tetrachlorvinphos (TCVP), or to amend their TCVP product registrations to terminate or delete one or more uses. The requests would terminate TCVP use of Chem-Tech, Ltd. (Chem-Tech) dust formulations on cats and dogs, voluntarily cancel TCVP dust formulations produced by The Hartz Mountain Corporation (Hartz) for domestic animals (cats and dogs) and cancel one of Hartz's pet collars for cats. The requests would not terminate the last TCVP products registered for use in the United States, or the last TCVP pesticide products registered in the United States for these uses. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been canceled or uses terminated only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before September 8, 2020.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–0308, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Patricia Biggio, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0547; email address: *biggio.patricia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

There are two registrants for TCVP products registered for use on cats and dogs, Hartz and Chem-Tech. The registrants have submitted requests for voluntary cancelations or use terminations.

II. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental and human health advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

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

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

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

III. Background on the Receipt of Requests To Cancel and/or Amend Registrations To Delete Uses

This notice announces receipt by EPA of requests from registrants Hartz and

Chem-Tech to cancel certain products or terminate certain uses of TCVP product registrations. TCVP is an organophosphate insecticide used to control fleas, ticks, various flies, lice, and insect larvae on livestock and domestic animals and their premises. In letters dated June 19, 2020 and July 10, 2020, Chem-Tech and Hartz, respectively, requested EPA to either cancel or amend registrations for certain pet use products containing TCVP. These pet products and their impending actions are identified in Tables 1 and 2 of Unit IV. These actions on the registrants' requests will not terminate the last TCVP products registered in the United States, or the last TCVP pesticide products registered in the United States for these uses.

IV. What action is the Agency taking?

This notice announces receipt by EPA of requests from registrants to cancel certain registrations or terminate certain uses of TCVP product registrations. The affected products and the registrants making the requests are identified in Tables 1 and 2 of this unit.

Unless the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order canceling or terminating uses from the affected registrations.

TABLE 1—TCVP PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR TERMINATION OF USE

Registration No.	Product name	Company	Uses to be deleted
47000–123	Clean Crop Livestock 1% Rabon Dust	Chem-Tech, Ltd	Dogs, Cats.

TABLE 2—TCVP PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product name	Company
2596–63	Hartz 2 in 1 Plus Long Lasting Collar for Cats	The Hartz Mountain Corporation.
2596–78	Hartz 2 in 1 Flea and Tick Powder for Cats	The Hartz Mountain Corporation.
2596–79	Hartz 2 in 1 Flea and Tick Powder for Dogs	The Hartz Mountain Corporation.

Table 3 of this unit includes the names and addresses of record for the registrants of the products listed in Table 1 and Table 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 and Table 2 of this unit.

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION AND/OR TERMINATION OF USE

EPA company No.	Company name and address
2596	The Hartz Mountain Corporation, 400 Plaza Drive, Seacaucus, NJ 07094.
47000	Chem-Tech, Ltd., 620 Lesher Place, Lansing, MI 48912.

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

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA (7 U.S.C. 136d(f)(1)(B)) requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) (7 U.S.C. 136d(f)(1)(C)) provides for the possibility of a 180-day comment period where a voluntary cancellation involves a pesticide registered for at least one minor agricultural use.

Because the TCVP pet uses here do not involve any minor agricultural uses, the 180-day comment provision does not apply, and EPA is providing a 30-day comment period on the requests.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the action. If the requests for voluntary cancellation and termination of uses are granted, the Agency intends to publish the cancellation order in the **Federal Register**.

In any order issued in response to these requests for cancellation of product registrations and for termination of uses, EPA anticipates it will include the following provisions for the treatment of any existing stocks of the products listed in Tables 1 and 2 of Unit IV:

Hartz may not ''release for shipment,'' as that term is defined by 40 CFR 152.3, any product under EPA Reg. Nos. 2596–78 and 2596–79 (dust products) after July 31, 2020, or as soon as EPA issues an order on the request following the public comment period announced in this Notice, and may not sell or distribute existing stocks of its dust products after March 31, 2021, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal. Hartz may sell or distribute existing stocks of EPA Reg. No. 2596–63 (cat collar) until exhausted.

Once EPA has approved product labels reflecting the requested termination of uses pertaining to EPA Reg. No. 47000–123, registrants will be permitted to sell or distribute products under the previously approved labeling, if appropriate, according to the terms of the label approval. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the deleted uses identified in Table 1 of Unit IV., except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrants may sell, distribute, or use existing stocks of canceled products until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: July 28, 2020.

Mary Reaves,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2020–17114 Filed 8–5–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of Receiverships

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for each of the following insured depository institutions, was charged with the duty of winding up the affairs of the former institutions and liquidating all related assets. The Receiver has fulfilled its obligations and made all dividend distributions required by law.

NOTICE OF TERMINATION OF RECEIVERSHIPS

Fund	Receivership name	City	State	Termination date
10145	United Security Bank	Sparta	GA	8/1/2020
10170	Town Community Bank & Trust	Antioch	IL	8/1/2020

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary, including but not limited to releases, discharges, satisfactions, endorsements, assignments, and deeds. Effective on the termination dates listed above, the Receiverships have been terminated, the Receiver has been discharged, and the Receiverships have ceased to exist as legal entities.

(Authority: 12 U.S.C. 1819)

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on August 3, 2020.

James P. Sheesley,

Acting Assistant Executive Secretary.

[FR Doc. 2020–17208 Filed 8–5–20; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) announces a Special Emphasis Panel (SEP) meeting on ''HEALTHCARE INFORMATION TECHNOLOGY RESEARCH (HITR) 2020/10–ZHS1 HSR–F (01).'' This SEP meeting will be closed to the public.

DATES: August 26, 2020.

ADDRESSES: Agency for Healthcare Research and Quality (Video Assisted Review), 5600 Fishers Lane, Rockville, Maryland 20850.

FOR FURTHER INFORMATION CONTACT: Jenny Griffith, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, Agency for Healthcare Research and Quality, (AHRQ), 5600 Fishers Lane, Rockville, Maryland 20850, Telephone: (301)427–1557.

SUPPLEMENTARY INFORMATION: A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the AHRQ, and agree to be available, to conduct on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

The SEP meeting referenced above will be closed to the public in accordance with the provisions set forth in 5 U.S.C. App. 2, section 10(d), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(6). Grant applications for the ''HEALTHCARE INFORMATION TECHNOLOGY RESEARCH (HITR) 2020/10–ZHS1 HSR–F (01)'' is to be reviewed and discussed at this meeting. 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.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: August 3, 2020.

Virginia L. Mackay-Smith,

Associate Director.

[FR Doc. 2020–17224 Filed 8–5–20; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0424]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Temporary Marketing Permit Applications

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by September 8, 2020.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://*

www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0133. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Temporary Marketing Permit Applications—21 CFR 130.17(c) and (i)

OMB Control Number 0910–0133—Extension

Section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) (FD&C Act) directs FDA to issue regulations establishing definitions and standards of identity for food. Under section 403(g) of the FD&C Act (21 U.S.C. 343(g)), a food that is subject to a definition and standard of identity prescribed by regulation is misbranded if it does not conform to such definition and standard of identity. Section 130.17 (21 CFR 130.17) provides for the issuance by FDA of temporary marketing permits that enable the food industry to test consumer acceptance and measure the technological and commercial feasibility in interstate commerce of experimental packs of food that deviate from applicable definitions and standards of identity. Section 130.17(c) enables the Agency to monitor the manufacture, labeling, and distribution of experimental packs of food that deviate from applicable definitions and standards of identity. The information so obtained can be used in support of a petition to establish or amend the applicable definition or standard of identity to provide for the variations. Section 130.17(i) specifies the information that a firm must submit to FDA to obtain an extension of a temporary marketing permit.

Description of Respondents: Respondents to this collection of information include private sector businesses including institutional and/or industrial customers and food industry members such as manufacturers, packers, or distributors desiring to apply for a temporary marketing permit or permit extension.

In the **Federal Register** of April 16, 2020 (85 FR 21247), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)	Total hours
130.17(c); Request for temporary marketing permit	13	2	26	25	650
130.17(i); Request to extend marketing permit	1	2	2	2	4
Total					654

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: July 31, 2020.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2020–17168 Filed 8–5–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0312]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extralabel Drug Use in Animals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting requirements associated with extralabel drug use in animals.

DATES: Submit either electronic or written comments on the collection of information by October 5, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before October 5, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of October 5, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or

confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2008–N–0312 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Extralabel Drug Use in Animals.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Extralabel Drug Use for Animals—21 CFR 530

OMB Control Number 0910–0325—Extension

The Animal Medicinal Drug Use Clarification Act of 1994 (Pub. L. 103–396) allows a veterinarian to prescribe the extralabel use of approved new animal drugs. Also, it permits FDA, if it finds that there is a reasonable probability that the extralabel use of an animal drug may prevent the risk to the public health, to establish a safe level for a residue from the extralabel use of the drug, and to require the development of an analytical method for the detection of residues above that established safe level (21 CFR 530.22(b)). Although to date, we have not established a safe level for a residue from the extralabel use of any new animal drug and, therefore, have not required the development of analytical methodology, we believe that there may be instances when analytical methodology will be required. We are, therefore, estimating the reporting burden based on two methods being required annually. The requirement to establish an analytical method may be fulfilled by any interested person. We believe that the sponsor of the drug will be willing to develop the method in most cases. Alternatively, FDA, the sponsor, and perhaps a third party may cooperatively arrange for method development. The respondents may be sponsors of new animal drugs; State, Federal, and/or State Agencies; academia; or individuals.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Part	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
530.22(b); Submission(s) of Analytical Method	2	1	2	4,160	8,320

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: July 31, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–17197 Filed 8–5–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–1207]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Establishing and Maintaining a List of U.S. Manufacturers/Processors of Feed Additives, Premixes, Compound Feed, Distillers' Dried Grains, and Distillers' Dried Grains with Solubles for Use with Animals with Interest in Exporting to The People's Republic of China

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by September 8, 2020.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0884. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Establishing and Maintaining a List of U.S. Manufacturers/Processors of Feed Additives, Premixes, Compound Feed, Distillers' Dried Grains, and Distillers' Dried Grains with Solubles for Use with Animals with Interest in Exporting to The People's Republic of China OMB Control Number 0910–0884

This information collection request allows FDA to include respondents who are U.S. manufacturers/processors of feed additives, premixes, compound feed, distillers' dried grains, and distillers' dried grains with solubles (hereinafter, ''manufacturers/processors'' of ''covered products'') on a list of those who wish to export their products to The People's Republic of China (China). On January 15, 2020, the United States and China entered into an Economic and Trade Agreement (the Agreement) which, among other things, will streamline the procedures for, and improve the efficiencies of, the exportation of U.S. covered products to China. These provisions of the Agreement are intended to facilitate trade between the two countries to better meet the demand for U.S. animal feed products in China and to promote the development of animal husbandry in China. Since the timing of the Agreement did not allow for publication of a 60-day notice under the PRA in advance of its implementation, FDA requested and OMB granted emergency review under 5 CFR 1320.13 of a new information collection request.

In the **Federal Register** of April 16, 2020 (85 FR 21242), subsequent to implementation under the emergency clearance, we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

Respondents: Manufacturing/processing facilities of covered products interested in exporting animal feed to China.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
§ 1.101(b)(1); Request for list placement to export to China—data elements demonstrating that product meets the foreign purchaser's specifications	450	1	450	0.083	38

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We have revised our burden table. In the 60-day notice published on April 16, 2020, the burden table identified types of respondents. Here we are clarifying that the information being collected is a request from those respondents to be placed on a list. By requesting to be placed on the list, respondents agree to disclose data elements, as agreed upon by the U.S. government and China, that demonstrate the product meets acceptable entry criteria. Since establishing the collection, we have 197 facilities on the list to date. There were fewer emails received, as some of the

companies registered multiple facilities in a single email.

Based on our experience with a similar information collection, upon requesting to be placed on the list, data elements that may be provided to China include the facility name, street address, city, State, and ZIP code of U.S. manufacturers and processors of covered products, who want to be included on the list sent to China.

Manufacturers of these products must currently register with FDA consistent with 21 CFR part 1, subpart H. Therefore, we believe burden associated with this collection should be minimal, but we welcome specific feedback in this regard.

Dated: July 30, 2020.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2020–17161 Filed 8–5–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–1099]

Inorganic Arsenic in Rice Cereals for Infants: Action Level; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a final guidance for industry entitled ''Inorganic Arsenic in Rice Cereals for Infants: Action Level.'' The guidance identifies for industry an action level for inorganic arsenic in rice cereals for infants that is intended to help protect public health and is achievable with the use of current good manufacturing practices. It also describes our intended sampling and enforcement approach. Thus, the guidance finalizes the approach presented in the draft guidance issued in 2016.

DATES: The announcement of the guidance is published in the **Federal Register** on August 6, 2020.

ADDRESSES: You may submit either electronic or written comments on FDA guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–1099 for ''Inorganic Arsenic in Rice Cereals for Infants: Action Level; Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to Division of Plant Products and Beverages, Office of Food Safety, Center for Food Safety and Applied Nutrition, Food and Drug Administration (HFS–317), 5001 Campus Dr., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Eileen Abt, Center for Food Safety and Applied Nutrition (HFS–317), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1529.

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a guidance for industry entitled ''Inorganic Arsenic in Rice Cereals for Infants: Action Level.'' We are issuing this guidance consistent with our good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

In the **Federal Register** of April 6, 2016 (81 FR 19976), we made available a draft guidance for industry entitled ''Inorganic Arsenic in Rice Cereals for Infants: Action Level.'' We also announced the availability of two related scientific documents: a document entitled ''Supporting Document for Action Level for Inorganic Arsenic in Rice Cereals for Infants'' (supporting document), and a risk assessment entitled ''Arsenic in Rice and Rice Products Risk Assessment: Report'' (the risk assessment report). We gave interested parties an opportunity to submit comments by July 5, 2016, and later extended the comment period to July 19, 2016 (see 81 FR 42714 (June 30, 2016)).

This guidance finalizes FDA's action level for inorganic arsenic in rice cereals for infants of 100 micrograms per kilogram (µg/kg) or 100 parts per billion (ppb) and identifies FDA's intended sampling and enforcement approach. The basis for the action level is set forth in the revised supporting document. The revised supporting document as well as the risk assessment report originally made available on April 6, 2016 (81 FR 19976), can be accessed at *www.regulations.gov.* The revised supporting document reviews data on inorganic arsenic levels in rice cereals for infants, health effects, and achievability and explains FDA's rationale for identifying an action level of 100 µg/kg for inorganic arsenic in rice cereals for infants.

Arsenic is present in the environment as a naturally occurring substance or as a result of contamination from human activity. In foods, arsenic may be present as inorganic arsenic (the primary toxic form of arsenic) or organic arsenic. Exposure to inorganic arsenic is associated with adverse human health effects including cancer and neurodevelopmental effects. Rice and rice products are common in the American diet, and FDA sampling data have demonstrated that rice and rice products have higher levels of inorganic arsenic than other foods. Furthermore, rice and rice products are a greater potential source of dietary inorganic arsenic exposure for infants and children than for adults, because the dietary patterns of infants and children are often less varied than those of adults, and because infants and children consume more food relative to their body weight than do adults. We expect that that the 100 µg/kg action level, though non-binding, will help protect the public health, by encouraging manufacturers to reduce levels of inorganic arsenic in rice cereals for infants, and we also expect that this level is achievable by industry with the use of current good manufacturing practices. We intend to consider the action level of 100 µg/kg or 100 ppb inorganic arsenic as an important source of information for determining whether infant rice cereal is adulterated within the meaning of section 402(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(a)(1)).

Comments on the draft guidance requested that we consider establishing action levels for rice-based foods other than infant cereal, lower the action level under 100 ppb, and questioned the achievability of the action level of 100 ppb for inorganic arsenic in infant rice cereals. However, we did not receive new data from the comments supporting establishment of either lower or higher action levels. We determined that we should prioritize efforts to reduce infant exposure to inorganic arsenic from rice because rice intake, primarily through infant rice cereal, is about three times greater for infants than adults in relation to body weight (Ref. 1), and epidemiologic data show that early life exposure to inorganic arsenic, including dietary exposure, can result in a child's decreased performance on certain developmental tests that measure learning (Ref. 1). Thus, the guidance finalizes the approach presented in the draft guidance.

Other comments suggested modifications to the risk assessment report. We note that the risk assessment report underwent extensive interagency review and external peer review before we made it available to the public. None of these comments supported a determination that the risk assessment report needs to be modified. We will continue to monitor research developments on non-cancer adverse health effects, such as neurodevelopmental effects, cardiovascular disease, and diabetes, to determine if new data support changes to the risk assessment report or guidance.

II. Paperwork Reduction Act of 1995

This guidance contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act is not required.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/FoodGuidances* or *https://www.regulations.gov.* Use the FDA website listed in the previous sentence to find the most current version of the guidance.

IV. References

The following references are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov.* FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. FDA, ''Arsenic in Rice and Rice Products Risk Assessment: Report,'' 2016, *https://www.fda.gov/Food/FoodScienceResearch/RiskSafetyAssessment/ucm485278.htm.*

Dated: July 29, 2020.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2020–17169 Filed 8–5–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–0955]

Phibro Animal Health Corp.; Carbadox in Medicated Swine Feed; Revocation of Approved Method; Correction

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Proposed order; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed order to revoke the approved method for detecting residues of carbadox, a carcinogenic new animal drug used in swine feed. The document was published with an incorrect docket number. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Diane Heinz, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–5692, *diane.heinz@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 20, 2020, in FR Doc. 2020–15246, on page 43853, the following correction is made:

On page 43853, in the second column, in the header of the document, and also in the third column under *Instructions,* ''Docket No. FDA–2016–N–0832'' is corrected to read ''Docket No. FDA–2020–N–0955''.

Dated: August 3, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–17177 Filed 8–5–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3771]

Report on the Performance of Drug and Biologics Firms in Conducting Postmarketing Requirements and Commitments; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the Agency's annual report entitled ''Report on the Performance of Drug and Biologics Firms in Conducting Postmarketing Requirements and Commitments.'' Under the Federal Food, Drug, and Cosmetic Act (FD&C Act), FDA is required to report annually on the status of postmarketing requirements (PMRs) and postmarketing commitments (PMCs) required of, or agreed upon by, application holders of approved drug and biological products. The report on the status of the studies and clinical trials that applicants have agreed to, or are required to, conduct is on the FDA's ''Postmarketing Requirements and Commitments: Reports'' web page.

FOR FURTHER INFORMATION CONTACT: Kathy Weil, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5367, Silver Spring, MD 20993–0002, 301–796–0700; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

Section 506B(c) of the FD&C Act (21 U.S.C. 356b(c)) requires FDA to publish an annual report on the status of postmarketing studies that applicants have committed to, or are required to conduct, and for which annual status reports have been submitted.

Under §§ 314.81(b)(2)(vii) and 601.70 (21 CFR 314.81(b)(2)(vii) and 601.70), applicants of approved drugs and licensed biologics are required to submit annually a report on the status of each clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology study or clinical trial either required by FDA (PMRs) or that they have committed to conduct (PMCs), either at the time of approval or after approval of their new drug application, abbreviated new drug application, or biologics license application. The status of PMCs concerning chemistry, manufacturing, and production controls and the status of other studies or clinical trials conducted on an applicant's own initiative are not required to be reported under §§ 314.81(b)(2)(vii) and 601.70 and are not addressed in this report. Furthermore, section 505(o)(3)(E) of the FD&C Act (21 U.S.C. 355(o)(3)(E)) requires that applicants report periodically on the status of each required study or clinical trial and each study or clinical trial ''otherwise undertaken . . . to investigate a safety issue . . . . ''

An applicant must report on the progress of the PMR/PMC on the anniversary of the drug product's approval [1] until the PMR/PMC is completed or terminated and FDA determines that the PMR/PMC has been fulfilled or that the PMR/PMC is either no longer feasible or would no longer provide useful information.

II. Fiscal Year 2019 Report

With this notice, FDA is announcing the availability of the Agency's annual report entitled ''Report on the Performance of Drug and Biologics Firms in Conducting Postmarketing Requirements and Commitments.'' Information in this report covers any PMR/PMC that was established, in writing, at the time of approval or after approval of an application or a supplement to an application and summarizes the status of PMRs/PMCs in fiscal year (FY) 2019 (*i.e.,* as of September 30, 2019). Information summarized in the report reflects combined data from the Center for Drug Evaluation and Research and the Center for Biologics Evaluation and Research and includes the following: (1) The number of applicants with open PMRs/PMCs; (2) the number of open PMRs/PMCs; (3) the timeliness of applicant submission of the annual status reports (ASRs); (4) FDA-verified status of open PMRs/PMCs reported in § 314.81(b)(2)(vii) or § 601.70 ASRs; (5) the status of closed PMRs/PMCs; and (6) the distribution of the status by fiscal year of establishment [2] (FY2013 to FY2019) for PMRs and PMCs open at the end of FY2019, or those closed within FY2019. Additional information about PMRs/PMCs is provided on FDA's website at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/postmarket-requirements-and-commitments.*

[1] An applicant must submit an annual status report on the progress of each open PMR/PMC within 60 days of the anniversary date of U.S. approval of the original application or on an alternate reporting date that was granted by FDA in writing. Some applicants have requested and been granted by FDA alternate annual reporting dates to facilitate harmonized reporting across multiple applications.

[2] The establishment date is the date of the formal FDA communication to the applicant that included the final FDA-required (PMR) or requested (PMC) postmarketing study or clinical trial.

Dated: July 31, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–17113 Filed 8–5–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–2032]

Limited Population Pathway for Antibacterial and Antifungal Drugs; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Limited Population Pathway for Antibacterial and Antifungal Drugs.'' This guidance provides information on the implementation of the limited population pathway provision of the 21st Century Cures Act (Cures Act), which established the limited population pathway for antibacterial and antifungal drugs (LPAD pathway). This guidance finalizes the draft guidance of the same name issued on June 13, 2018.

DATES: The announcement of the guidance is published in the **Federal Register** on August 6, 2020.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the

instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–2032 for ''Limited Population Pathway for Antibacterial and Antifungal Drugs.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Sarah Walinsky, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6242, Silver Spring, MD 20993–0002, 240–402–4075; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a final guidance for industry entitled ''Limited Population Pathway for Antibacterial and Antifungal Drugs.'' Section 3042 of the Cures Act added section 506(h) to the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 356(h)(5)) to create the LPAD pathway. The LPAD pathway is intended to encourage the development of certain antibacterial and antifungal drugs to help address the critical public health and patient care concern that has resulted from the current decline in antibacterial drug research and development as serious antibacterial and antifungal drug-resistant infections increase. FDA is committed to using the tools at its disposal, including the LPAD pathway, to help encourage the development of safe and effective drugs that address unmet needs of patients with serious bacterial and fungal infections.

Section 506(h)(5) of the FD&C Act requires FDA to issue guidance that describes criteria, processes, and other general considerations for demonstrating the safety and effectiveness of limited population antibacterial and antifungal drugs. This guidance provides this information and is intended to assist sponsors in the development of certain new antibacterial and antifungal drugs for approval under the LPAD pathway. This guidance also is intended to assist sponsors in developing labeling, including prescribing information, patient labeling, and carton/container labeling, that incorporates certain statements required by section 506(h) of the FD&C Act. This guidance satisfies the requirements under section 506(h)(5) of the FD&C Act.

This guidance finalizes the draft guidance of the same name issued on June 13, 2018 (83 FR 27616). Changes made to the guidance were based on the comments submitted to the docket on the draft guidance and public comments received during the FDA public meeting entitled ''Limited Population Pathway for Antibacterial and Antifungal Drugs,'' which was held on July 12, 2019 (84 FR 12621) (meeting transcript available at *https://www.fda.gov/news-events/fda-meetings-conferences-and-workshops/fda-public-meeting-limited-population-pathway-antibacterial-and-antifungal-drugs-07122019-07122019*). Based on the comments received, FDA made clarifying changes to this guidance, included examples of labeling and explanations of the meaning of limited population, and provided further

information about presubmission of promotional materials.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Limited Population Pathway for Antibacterial and Antifungal Drugs.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance contains no new collection of information. Therefore, additional clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521) is not required.

However, this guidance refers to previously approved FDA collections of information. These collections of information were reviewed by OMB under the PRA. The collections of information in 21 CFR part 314 for the submission of new drug applications (NDAs) under the LPAD pathway, including the submission of labeling under § 314.50(e)(2)(ii) and (*l*)(1)(i) and advertisements and promotional labeling under § 314.81(b)(3)(i), have been approved under OMB control number 0910–0001. The submission of biologics license applications (BLAs) under the LPAD pathway has been approved under OMB control number 0910–0338.

The submission of prescription drug labeling in 21 CFR 201.56 and 201.57 has been approved under OMB control number 0910–0572. The submission of medication guides in 21 CFR part 208 has been approved under OMB control number 0910–0393. The submission of prescription drug advertisements in 21 CFR 202.1 has been approved under OMB control number 0910–0686.

The collections of information in 21 CFR part 312, including submissions under subpart E, have been approved under OMB control number 0910–0014. The collections of information in FDA's draft guidance for industry entitled ''Formal Meetings Between the FDA and Sponsors and Applicants for PDUFA Products'' (available at *https://www.fda.gov/media/109951/download*), including requests for pre-NDA and pre-BLA meetings and other meetings pertaining to the LPAD pathway, have been approved under OMB control number 0910–0429.

The collections of information in FDA's final guidance for industry entitled ''Expedited Programs for Serious Conditions—Drugs and Biologics'' (available at *https://www.fda.gov/media/86377/download*) have been approved under OMB control number 0910–0765.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances,* or *https://www.regulations.gov.*

Dated: July 31, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–17109 Filed 8–5–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–2021]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency Pursuant to Dietary Risk Considerations

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by September 8, 2020.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0562. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency Pursuant to Dietary Risk Considerations

OMB Control Number 0910–0562—Extension

The Food Quality Protection Act of 1996, which amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FD&C Act), established a new safety standard for pesticide residues in food, with an emphasis on protecting the health of infants and children. The Environmental Protection Agency (EPA) is responsible for regulating the use of pesticides (under FIFRA) and for establishing tolerances or exemptions from the requirement for tolerances for residues of pesticide chemicals in food commodities (under the FD&C Act). EPA may, for various reasons, *e.g.,* as part of a systematic review or in response to new information concerning the safety of a specific pesticide, reassess whether a tolerance for a pesticide residue continues to meet the safety standard in section 408 of the FD&C Act (21 U.S.C. 346a). When EPA determines that a pesticide's tolerance level does not meet that safety standard, the registration for the pesticide may be canceled under FIFRA for all or certain uses. In addition, the tolerances for that pesticide may be lowered or revoked for the corresponding food commodities.

Under section 408(*l*)(2) of the FD&C Act, when the registration for a pesticide is canceled or modified due to, in whole or in part, dietary risks to humans posed by residues of that pesticide chemical on food, the effective date for the revocation of such tolerance (or exemption in some cases) must be no later than 180 days after the date such cancellation becomes effective or 180

days after the date on which the use of the canceled pesticide becomes unlawful under the terms of the cancellation, whichever is later.

When EPA takes such actions, food derived from a commodity that was lawfully treated with the pesticide may not have cleared the channels of trade by the time the revocation or new tolerance level takes effect. The food could be found by FDA, the Agency that is responsible for monitoring pesticide residue levels and enforcing the pesticide tolerances in most foods (the U.S. Department of Agriculture has responsibility for monitoring residue levels and enforcing pesticide tolerances in meat, poultry, catfish, and certain egg products), to contain a residue of that pesticide that does not comply with the revoked or lowered tolerance. We would normally deem such food to be in violation of the law by virtue of it bearing an illegal pesticide residue. The food would be subject to FDA enforcement action as an ''adulterated'' food. However, the channels of trade provision of the FD&C Act addresses the circumstances under which a food is not unsafe solely due to the presence of a residue from a pesticide chemical for which the tolerance has been revoked, suspended, or modified by EPA. The channels of trade provision (section 408(*l*)(5) of the FD&C Act) states that food containing a residue of such a pesticide shall not be deemed ''adulterated'' by virtue of the residue, if the residue is within the former tolerance, and the responsible party can demonstrate to FDA's satisfaction that the residue is present as the result of an application of the pesticide at a time and in a manner that were lawful under FIFRA.

In the **Federal Register** of May 18, 2005 (70 FR 28544), we announced the availability of a final guidance document entitled ''Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency Pursuant to Dietary Risk Considerations.'' The guidance represents FDA's current thinking on its planned enforcement approach to the channels of trade provision of the FD&C Act and how that provision relates to FDA-regulated products with residues of pesticide chemicals for which tolerances have been revoked, suspended, or modified by EPA under dietary risk considerations. The guidance can be found at the following link: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-channels-trade-policy-commodities-residues-pesticide-chemicals.*

We anticipate that food bearing lawfully applied residues of pesticide chemicals that are the subject of future EPA action to revoke, suspend, or modify their tolerances, will remain in the channels of trade after the applicable tolerance is revoked, suspended, or modified. If we encounter food bearing a residue of a pesticide chemical for which the tolerance has been revoked, suspended, or modified, we intend to address the situation in accordance with provisions of the guidance. In general, we anticipate that the party responsible for food found to contain pesticide chemical residues (within the former tolerance) after the tolerance for the pesticide chemical has been revoked, suspended, or modified will be able to demonstrate that such food was handled, *e.g.,* packed or processed, during the acceptable timeframes cited in the guidance by providing appropriate documentation to FDA as discussed in the guidance. We are not suggesting that firms maintain an inflexible set of documents where anything less or different would likely be considered unacceptable. Rather, we are leaving it to each firm's discretion to maintain appropriate documentation to demonstrate that the food was so handled during the acceptable timeframes.

Examples of documentation that we anticipate will serve this purpose consist of documentation associated with packing codes, batch records, and inventory records. These are types of documents that many food processors routinely generate as part of their basic food-production operations. Accordingly, under the PRA, we are requesting the extension of OMB approval for the information collection provisions in the guidance.

Description of Respondents: The likely respondents to this collection of information are firms in the produce and food processing industries that handle food products that may contain residues of pesticide chemicals after the tolerances for the pesticide chemicals have been revoked, suspended, or modified.

In the **Federal Register** of May 13, 2020 (85 FR 28639), we published a 60-day notice requesting public comment on the proposed collection of information. Four comments were received. Three comments offering general support for the information collection and one comment was non responsive to the information collection topics solicited. None of the comments suggested that we revise our burden estimate.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Submission of Documentation	1	1	1	3	3

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

We expect the total number of pesticide tolerances that are revoked, suspended, or modified by EPA under dietary risk considerations in the next 3 years to remain at a low level, as there have been no changes to the safety standard for pesticide residues in food since 1996. Thus, we expect the number of submissions we receive under the guidance document to also remain at a low level. However, to avoid counting this burden as zero, we have estimated the burden at one respondent making one submission a year for a total of one annual submission.

We based our estimate of the hours per response on the assumption that the information requested in the guidance is readily available to the submitter. We expect that the submitter will need to gather information from appropriate persons in the submitter's company and to prepare this information for submission to FDA. The submitter will almost always merely need to copy existing documentation. We believe that this effort should take no longer than 3 hours per submission.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Develop documentation Process	1	1	1	16	16

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

In determining the estimated annual recordkeeping burden, we estimated that at least 90 percent of firms maintain documentation, such as packing codes, batch records, and inventory records, as part of their basic food production or import operations. Therefore, the recordkeeping burden was calculated as the time required for the 10 percent of firms that may not be currently maintaining this documentation to develop and maintain documentation, such as batch records and inventory records. In previous information collection requests, this recordkeeping burden was estimated to be 16 hours per record. We have retained our prior estimate of 16 hours per record for the recordkeeping burden. As shown in table 1, we estimate that one respondent will make one submission per year. Although we estimate that only 1 of 10 firms will not be currently maintaining the necessary documentation, to avoid counting the recordkeeping burden for the 1 submission per year as 1/10th of a recordkeeper, we estimate that 1 recordkeeper will take 16 hours to develop and maintain documentation recommended by the guidance.

Dated: July 30, 2020.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2020–17174 Filed 8–5–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request Information Collection Request Title: Federal Tort Claims Act Program Deeming Sponsorship Application for Free Clinics, OMB No. 0915–0293–Revision

AGENCY: Health Resources and Services Administration, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this Information Collection Request must be received no later than October 5, 2020.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Federal Tort Claims Act Program Deeming Sponsorship Application for Free Clinics, OMB No. 0915–0293 – Revised

Abstract: Section 224(o) of the Public Health Service (PHS) Act (42 U.S.C. 233(o)), as amended, authorizes the ''deeming'' of certain individuals as PHS employees for the purposes of receiving liability protections, including Federal Tort Claims Act (FTCA) coverage, for the performance of medical, surgical, dental or related functions within the scope of deemed employment. Section 224(o) extends eligibility for deemed PHS employee status to free clinic health professionals including employees, officers, board members, contractors, and volunteers at qualifying free clinics. The Free Clinics FTCA Program is administered by HRSA's Bureau of Primary Health Care. Sponsoring free clinics seeking FTCA coverage for their employees, officers, board members, contractors, and volunteers must submit deeming applications in the specified form and manner on behalf of named individuals for review and approval, resulting in a ''deeming determination'' that includes associated FTCA coverage for these individuals.

HRSA is proposing several changes to the FTCA Program Deeming Applications for Free Clinics, to be used for Free Clinic deeming sponsorship applications for Calendar Year 2021 and thereafter, to improve question clarity and clarify required documentation.

Specifically, the Application includes the following proposed changes:

- Updated application language: Specifically, throughout the application, alternate terminology was utilized to provide greater clarity and specificity. These changes were based on stakeholder feedback and information received from the HRSA Health Center Program Support. These changes are not substantive in nature.
- Added Service Type and clarifications regarding professional designation: Specifically, section VI of the application was updated to include service type which will allow HRSA to verify whether an individual is performing clinical or non-clinical services. In addition to the inclusion of service type, a note was added to request that free clinics include the professional designation for each individual.
- Deleted remark in section IX: It has been determined that the information requested in this section, which related to offsite events and particularized determinations is no longer necessary to evaluate eligibility for deeming.

Need and Proposed Use of the Information: Deeming applications must address certain criteria required by law in order for the Secretary to deem an individual sponsored by a qualifying free clinic as a PHS employee for purposes of liability protections, including FTCA coverage. This determination cannot be made without the collection of this information. Specifically, the deeming sponsorship application form seeks information verifying that the free clinic meets the criteria to sponsor a deeming application and that the individual being sponsored is eligible to be deemed

as a PHS employee. The FTCA application form for free clinics has been updated to improve clarity and thereby improve applicants' and deemed individuals' compliance with applicable requirements.

Likely Respondents: Respondents include free clinics seeking deemed PHS employee status on behalf of their sponsored individuals for purposes of liability protections, including FTCA coverage.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
FTCA Free Clinics Program Application	374	3	1,122	2	2,244
Total	374		1,122		2,244

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–17178 Filed 8–5–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Vaccine Advisory Committee

AGENCY: Office of Infectious Disease and HIV/AIDS Policy, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the National Vaccine Advisory Committee (NVAC) will hold a virtual meeting. The meeting will be open to the public and public comment will be heard during the meeting.

DATES: The meeting will be held September 23–24, 2020. The confirmed meeting times and agenda will be posted on the NVAC website at *http://www.hhs.gov/nvpo/nvac/meetings/index.html* as soon as they become available.

ADDRESSES: Instructions regarding attending this meeting will be posted online at: *http://www.hhs.gov/nvpo/nvac/meetings/index.html* at least one week prior to the meeting. Pre-registration is required for those who wish to attend the meeting or participate in public comment. Please register at *http://www.hhs.gov/nvpo/nvac/meetings/index.html.*

FOR FURTHER INFORMATION CONTACT: Ann Aikin, Acting Designated Federal Officer, at the Office of Infectious Disease and HIV/AIDS Policy, U.S. Department of Health and Human Services, Mary E. Switzer Building, Room L618, 330 C Street SW, Washington, DC 20024. Phone: (202) 695–9742; email *nvac@hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 2101 of the Public Health Service Act (42 U.S.C. 300aa–1), the Secretary of HHS was mandated to establish the National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The NVAC was established to provide advice and make recommendations to the Director of the National Vaccine Program on matters related to the Program's responsibilities. The Assistant Secretary for Health serves as Director of the National Vaccine Program.

During the September 2020 NVAC meeting, sessions will focus on future coronavirus vaccines, the upcoming flu season, immunization equity, and routine vaccination. Please note that agenda items are subject to change, as priorities dictate. Information on the final meeting agenda will be posted prior to the meeting on the NVAC website: *http://www.hhs.gov/nvpo/nvac/index.html.*

Members of the public will have the opportunity to provide comment at the NVAC meeting during the public comment period designated on the agenda. Public comments made during the meeting will be limited to three minutes per person to ensure time is allotted for all those wishing to speak. Individuals are also welcome to submit written comments. Written comments should not exceed three pages in length. Individuals submitting written comments should email their comments to *nvac@hhs.gov* at least five business days prior to the meeting.

Dated: July 14, 2020.

Ann Aikin,

Acting Designated Federal Official, Office of the Assistant Secretary for Health.

[FR Doc. 2020–17147 Filed 8–5–20; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Listing of Members of the National Institutes of Health's Senior Executive Service 2020 Performance Review Board (PRB)

AGENCY: National Institutes of Health, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH) announces the persons who will serve on the National Institutes of Health's Senior Executive Service 2020 Performance Review Board.

FOR FURTHER INFORMATION CONTACT: For further information about the NIH Performance Review Board, contact Mr. Kha Nguyen, Director, Division of Senior and Scientific Executive Management, Office of Human Resources, National Institutes of Health, Building 31, Room 1C31P, Bethesda, Maryland 20892, telephone 301.594.3022 (not a toll-free number), email *kha.nguyen@nih.gov.*

SUPPLEMENTARY INFORMATION: This action is being taken in accordance with Title 5, U.S.C., Section 4314(c)(4), which requires that members of performance review boards be appointed in a manner to ensure consistency, stability, and objectivity in performance appraisals and requires that notice of the appointment of an individual to serve as a member be published in the **Federal Register**.

The following persons will serve on the NIH Performance Review Board, which oversees the evaluation of performance appraisals of NIH Senior Executive Service (SES) members:

Alfred Johnson, Chair
Courtney Billet
Maureen Gormley
Michael Gottesman
Michael Lauer
Sally Lee
Patrick Shirdon
Lawrence Tabak
Daniel Wheeland

Dated: July 30, 2020.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2020–17196 Filed 8–5–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Identifying Experts in Prevention Science Methods To Include on NIH Review Panels, (Office of the Director, Office of Disease Prevention)

AGENCY: National Institutes of Health, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institutes of Health (NIH), Office of Disease Prevention (ODP) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Ms. Kat Schwartz, Communications Specialist, NIH Office of Disease Prevention, 6100 Executive Blvd., Room 2B03, Bethesda, MD 20892 or call (301) 827–6514 or email your request, including your address, to *prevention@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Identifying Experts in Prevention Science Methods to Include on NIH Review Panels, OMB# 0925–0728—EXTENSION, exp. 11/30/2020, Office of Disease Prevention (ODP), National Institutes of Health (NIH).

Need and Use of Information Collection: The Office of Disease Prevention (ODP) is the lead Office at the National Institutes of Health (NIH) responsible for assessing, facilitating, and stimulating research in disease prevention and health promotion, and disseminating the results of this research to improve public health. Prevention is preferable to treatment, and research on disease prevention is an important part of the NIH's mission. The knowledge gained from this research leads to stronger clinical practice, health policy, and community health programs. The ODP collaborates with the NIH, other Department of Health and Human Services (DHHS) agencies, and other public and private partners to achieve the Office's mission and goals. One of ODP's priorities is to promote the use of the best available methods in prevention research and support the development of better study designs and research methods. One of our strategies is to help NIH Institutes, Centers, and Offices identify experts in prevention science methods to include on their peer review panels. This strengthens the panels and improves the quality of the prevention-related research supported by the NIH. To identify experts in prevention science methods, we have developed online software that allows us to collect scientists' names, contact information, and resumes, as well as to have those scientists identify their level of expertise in a variety of prevention science methods and content areas. The data are used to populate a web-based tool that NIH staff can use to identify scientists with prevention-related research expertise in specific research methods and study designs for invitation to serve as a reviewer on an NIH study section. This system is also shared with other DHHS agency's review staff, to use in the same way. This OMB extension is for the continued collection of data using the existing procedures, format, and online software platform for the Prevention Research Expertise Survey (PRES). The purpose of the survey is to maintain a current directory of experts in prevention science research methods, study designs, and scientific content topics, as well as the geographic region, setting, and income category of the region/country in which investigator's/respondent's research is performed.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 417.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
New Investigators	600	1	25/60	250
Returning Investigators (to update information)	1,000	1	10/60	167
Total		1,600		417

Dated: July 30, 2020.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2020–17198 Filed 8–5–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Meeting of the Substance Abuse and Mental Health Services Administration, Center for Mental Health Services National Advisory Council

AGENCY: Substance Abuse and Mental Health Services Administration, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: Notice is hereby given of the meeting on August 27, 2020 of the Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services National Advisory Council (CMHS NAC). The meeting is open to the public and can be accessed remotely. The meeting will include consideration of the minutes from the February 20, 2020, SAMHSA, CMHS NAC meeting; updates from the CMHS Director; a presentation from the SAMHSA Statistics and Data Demonstration, and a discussion from the Assistant Secretary for Mental Health and Substance Use on SAMHSA's response to COVID–19.

DATES: Thursday, August 27, 2020, 10:00 a.m. to 1:15 p.m., EDT, (OPEN).

ADDRESSES: The meeting will be held virtually only. Agenda with call-in information will be posted on the SAMHSA website prior to the meeting at: *https://www.samhsa.gov/about-us/advisory-councils/meetings.*

FOR FURTHER INFORMATION CONTACT: Pamela Foote, Designated Federal Officer, CMHS National Advisory Council, 5600 Fishers Lane, Room 14E57B, Rockville, Maryland 20857. Telephone: (240) 276–1279, Fax: (301) 480–8491, Email: *pamela.foote@samhsa.hhs.gov.*

SUPPLEMENTARY INFORMATION: Interested persons may present data, information, or views, orally or in writing, on issues pending before the Council. Individuals interested in sending written submissions or making public comments, must forward them and notify the contact person on or before August 10, 2020. Up to three minutes will be allotted for each presentation.

Registration is required to participate during this meeting. To attend virtually, or to obtain the call-in number and access code, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register on-line at: *http://snacregister.samhsa.gov/MeetingList.aspx* or communicate with the CMHS NAC Designated Federal Officer; Pamela Foote.

Meeting information and a roster of Council members may be obtained by accessing the SAMHSA website at: *http://www.samhsa.gov/about-us/advisory-councils/cmhs-national-advisory-council* or by contacting the CMHS NAC Designated Federal Officer; Pamela Foote.

Council Name: Substance Abuse and Mental Health Services Administration Center for Mental Health Services National Advisory Council

Authority: Public Law 92–463.

Dated: July 21, 2020.

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2020–16149 Filed 8–5–20; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0030519; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Hastings Museum, Hastings, NE

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Hastings Museum has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Hastings Museum. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Hastings Museum at the address in this notice by September 8, 2020.

ADDRESSES: Teresa Kreutzer-Hodson, Hastings Museum, 1330 North Burlington Avenue, Hastings, NE 68901, telephone (402) 461–2399, email *tkreutzerhodson@hastingsmuseum.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Hastings Museum, Hastings, NE. The human remains were removed from Bonita, Morehouse Parish, LA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Hastings Museum professional staff in

consultation with representatives of The Choctaw Nation of Oklahoma.

History and Description of the Remains

Sometime prior to 1926, human remains representing, at minimum, one individual were removed from Bonita in Morehouse Parish, LA. The human remains were donated to the Hastings Museum by Bonita resident Thomas Harp, and cataloged between 1926 and 1931 (01504). No known individual was identified. No associated funerary objects are present.

Hasting Museum records state that these human remains were excavated from the upper layer of soil and attributes them to the Choctaw. The occipital exhibits cranial remodeling, which is known to have been practiced by the Choctaw.

Sometime prior to 1926, human remains representing, at minimum, one individual were removed from a burial mound at or near Bonita, LA. According to Hasting Museum records, during the course of road construction, the human remains were discovered 10 feet below the base of the mound. (The records also state that pottery associated with the human remains was removed, but it was not given to the Hastings Museum and its whereabouts are unknown.) The human remains were donated to the Hastings Museum by Bonita resident Thomas Harp, and cataloged between 1926 and 1931 (02136). No known individual was identified. No associated funerary objects are present.

Early records identify this individual as Choctaw. The human remains exhibit extensive asymmetrical cranial remodeling, which is known to have been practiced by the Choctaw (the type of remodeling cannot be determined due to post-mortem damage).

Determinations Made by the Hastings Museum

Officials of the Hastings Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and The Choctaw Nation of Oklahoma.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Teresa Kreutzer-Hodson, Hastings Museum, 1330 North Burlington Avenue, Hastings, NE 68901, telephone (402) 461–2399, email *tkreutzerhodson@hastingsmuseum.org,* by September 8, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Choctaw Nation of Oklahoma may proceed.

The Hastings Museum is responsible for notifying The Choctaw Nation of Oklahoma that this notice has been published.

Dated: June 25, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–17175 Filed 8–5–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0030518; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Virginia Living Museum, Newport News, VA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Virginia Living Museum has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Virginia Living Museum. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Virginia Living Museum at the address in this notice by September 8, 2020.

ADDRESSES: Emily Hoffman, Collections Manager, Virginia Living Museum, 524 J Clyde Morris Blvd., Newport News, VA 23701, telephone (757) 595–1900 Ext. 238, email *emily.hoffman@thevlm.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Virginia Living Museum, Newport News, VA. The human remains were removed from Harmon's Cave in Saltville, Smyth County, VA, and from the Great South Channel, off the coast of Virginia.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Virginia Living Museum professional staff in consultation with representatives of the Catawba Indian Nation (aka Catawba Tribe of South Carolina); Chickahominy Indian Tribe—Eastern Division; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Monacan Indian Nation; Nansemond Indian Nation (previously listed as Nansemond Indian Tribe); Pamunkey Indian Tribe; Rappahannock Tribe, Inc.; The Muscogee (Creek Nation); and the Upper Mattaponi Tribe (hereafter referred to as ''The Tribes'').

History and Description of the Remains

In 1959, human remains representing, at minimum, two individuals were removed from Harmon's Cave, which is located behind the Madame Russel House in Saltville, Smyth County, VA. Saltville is a small town that lies mostly in Smyth County in southwestern Virginia, between the Holston River and the Tennessee and Virginia Railroad. The human remains were collected by a member of the public in 1959, and they were donated to the Virginia Living Museum in 1967. The human remains include the top portion of a skull measuring approximately 160mm x 130mm (front to back) and belonging to an individual of unknown age and sex, and the partial forehead, brow ridges,

and part of nasal cavity of a skull measuring approximately 100mm x 97mm and possibly belonging to a juvenile of unknown sex. No known individuals were identified. No associated funerary objects are present.

We do not have any historical records for these human remains beyond our initial donation form. When these human remains were donated, they were reported to be Native American.

On June 6, 1994, human remains representing, at minimum, one individual were removed from the Great South Channel, off the coast of Virginia. The human remains were collected by a member of the public in 1994, and they were donated to the Virginia Living Museum shortly thereafter. The human remains include the partial back and top of a skull measuring approximately 155mm (front to back) x 125mm (side to side) and belonging to an individual of unknown age and sex. No known individual was identified. No associated funerary objects are present.

We do not have any historical records for these human remains beyond our initial donation form. When these human remains were donated, they were reported to be Native American.

Determinations Made by the Virginia Living Museum

Officials of the Virginia Living Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Emily Hoffman, Collections Manager, Virginia Living Museum, 524 J Clyde Morris Blvd., Newport News, VA 23701, telephone (757) 595–1900 Ext. 238, email *emily.hoffman@thevlm.org,* by September 8, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The Virginia Living Museum is responsible for notifying The Tribes that this notice has been published.

Dated: June 25, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–17173 Filed 8–5–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–30656 ;PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before July 18, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by August 21, 2020.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before July 18, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CONNECTICUT

Fairfield County

The Lodges Historic District, 68 and 70 South Main St., Norwalk, SG100005501

INDIANA

Allen County

St. Rose de Lima Roman Catholic Church and Rectory, 209 Mulberry St. and 206 Summit St., Monroeville, SG100005514

Benton County

Oxford Community Mausoleum, (Early Community Mausoleum Movement in Indiana MPS), 3268 West IN 352, Oxford vicinity, MP100005507

Clark County

M. Fine & Sons Building, 835 Spring St., Jeffersonville, SG100005505

Dubois County

St. Ferdinand Parish Historic District, Roughly bounded by Maryland, 8th, and 10th Sts., and St. Benedict Drive, Ferdinand, SG100005513

Elkhart County

Pletcher, Robert and Susan, House, (Residential Planning and Development in Indiana, 1940–1973 MPS), 1102 Northwood Dr., Nappanee, MP100005508

Fountain County

Veedersburg Clover Leaf Route Depot, 295 East 2nd St., Veedersburg, SG100005516

Greene County

Old Clifty Church, 3088 South Old Clifty Rd., Bloomfield, SG100005506

Henry County

Henry County Memorial Park, 2221 North Memorial Dr., New Castle, SG100005504

Jackson County

Westside Historic District, (Historic Residential Suburbs in the United States, 1830–1960 MPS), Roughly bounded by Bryant Blvd., Poplar, Maple, and 6th Sts., Seymour, MP100005517

La Porte County

Frost, Dr. Robert and Amelia House, (Residential Planning and Development in Indiana, 1940–1973 MPS), 3215 Cleveland Ave., Michigan City, MP100005503

Tryon Farm, 1400 and 1402 Tyron Rd., Michigan City, SG100005515

Owen County

Spencer Courthouse Square Historic District, Roughly Franklin, Washington, Market and Main Sts., between Montgomery, Morgan, Harrison, and Jefferson Sts., Spencer, SG100005510

Spencer Presbyterian Church and Manse, 154 North Main St., Spencer, SG100005511

Tippecanoe County

Spring Vale Cemetery, 2580 Schuyler Avenue, Lafayette, SG100005512

Vigo County

Ehrmann Building, 929 Wabash Ave., Terre Haute, SG100005502

IOWA

Carroll County

Manning Milwaukee Railroad Trestle, Crosses Railroad/Center St., 682 ft. north of Julia St., Manning vicinity, SG100005487

Linn County

Knott, Adams R., Frederick L. and Martha (Taylor), House, (Mount Vernon MPS), 417 A Ave. SE, Mount Vernon, MP100005488
Bauman, Augustus and Elizabeth (Huntsberger), House, (Mount Vernon MPS), 601 1st Ave. SW, Mount Vernon, MP100005489
Wilds, Col. John Q. and Rowena (Camp), House, (Mount Vernon MPS), 113 2nd Ave. NW, Mount Vernon, MP100005490
Pease, Dr. Luther L. and Susette E. (Baker), House, (Mount Vernon MPS), 600 1st Ave. South, Mount Vernon, MP100005491
Waln, Elijah D. and Mary J. (Adams), House, (Mount Vernon MPS), 323 3rd St. NE, Mount Vernon, MP100005492
Robinson, George W. and Mary J. (Maxwell), House, (Mount Vernon MPS), 514 1st St. SE, Mount Vernon, MP100005494
Albright, Henry D. and Juliana (Wortz), House, (Mount Vernon MPS), 224 1st St. SW, Mount Vernon, MP100005495
Smith, James J. and Anna J. (Linean), House #1, (Mount Vernon MPS), 316 3rd Ave. SW, Mount Vernon, MP100005496
Smith, James J. and Anna J. (Linean), House #2, (Mount Vernon MPS), 201 2nd Ave. NW, Mount Vernon, MP100005497
McCartney, James H. and Mayetta (Degrush), House, (Mount Vernon MPS), 214 2nd St. SE, Mount Vernon, MP100005498
Shantz, Martin L. and Mary Jane (Yount), House, (Mount Vernon MPS), 303 A Ave. SE, Mount Vernon, MP100005499

Madison County

Lewis, Judge W.H. and Emma, Historic District, 1145 Summit St. West, Winterset, SG100005493

MASSACHUSETTS

Franklin County

Orange Armory, 135 East Main St., Orange, SG100005477

Middlesex County

Malden City Infirmary, 341 Forest St., Malden, SG100005476

Worcester County

Printers Building, The, 44–50 Portland St., Worcester, SG100005478

NEW YORK

Dutchess County

Sutherland Cemetery, 305 Market Ln., Stanfordville, SG100005468
Shear Homestead, 34 Rymph Rd., Lagrangeville, SG100005479

Essex County

Keene Valley Country Club, 8 Country Club Ln., Keene Valley, SG100005480

Madison County

Morrisville Engine House, 93 East Main St., Morrisville, SG100005481

Nassau County

Schmidlapp-Humes Estate Historic District, 5 Frost Mill Rd., 345 Oyster Bay Rd., and 3 Dogwood Ln., Locust Valley, SG100005469

New York County

New York Public Library, Fort Washington Branch, (Carnegie Libraries of New York City MPS), 535 West 179th St., New York, MP100005470

Niagara County

Sweeney Estate Historic District, Portions of Bryant, Christina, Falconer, Goundry, Grant, Niagara, Oliver, Tremont, and, Vandervoot Sts., Lincoln, Payne, Thompson and Whiting Aves., Louisa Pkwy., and Pine, Woods Dr., North Tonawanda, SG100005471

Oneida County

Utica Steam and Mohawk Valley Cotton Mill, 600–800 State St., Utica, SG100005482

Onondaga County

General Ice Cream Corporation Factory, 112–120 Wilkinson St. and 212 Barker Ave., Syracuse, SG100005472
Sylvester Apartment Building, 900–906 East Fayette St., Syracuse, SG100005483

Ontario County

Miller Corsets, Inc. Factory, 10 Chapin St., Canandaigua, SG100005473

Suffolk County

Hauppauge Methodist Episcopal Church, 473 Town Line Rd., Hauppague, SG100005484

Westchester County

Quaker Ridge Golf Club, 146 Griffen Ave., Scarsdale, SG100005485

OHIO

Ashtabula County

Ashtabula Main Avenue Historic District, Roughly bounded by Park Pl., Collins Blvd., West 48th St., Center St., and Park Ave., Ashtabula, SG100005467

Medina County

Seville Inn, 39 West Main St., Seville, SG100005486

PENNSYLVANIA

Erie County

Erie Masonic Temple, 32 West 8th St., Erie, SG100005518

Northampton County

Northampton County Bridge No. 15, Meadows Road west of PA 412/Leithsville Rd. and the Saucon Rail Trail, Lower Saucon Township, SG100005519

Philadelphia County

Peter Woll and Sons Factory, 165–173 West Berks St., Philadelphia, SG100005520

Additional documentation has been received for the following resource:

PENNSYLVANIA

Philadelphia County

Sykes Brothers Yarn Mill (Additional Documentation), (Textile Industry in the Kensington Neighborhood of Philadelphia, Pennsylvania MPS), 2545 North Hancock St., Philadelphia, AD100004701

Nomination submitted by Federal Preservation Officer:

The State Historic Preservation Officer reviewed the following nomination and responded to the Federal Preservation Officer within 45 days of receipt of the nomination and supports listing the property in the National Register of Historic Places.

COLORADO

Larimer County

Cascade Cottages, 4140 Fall River Rd., Estes Park, SG100005475

Authority: Section 60.13 of 36 CFR part 60.

Dated: July 21, 2020.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2020–17152 Filed 8–5–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0030554; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Valley Authority, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Tennessee Valley Authority (TVA) has completed an inventory of human remains and associated funerary objects in consultation with the appropriate Federally-recognized Indian Tribes, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Federally-recognized Indian Tribes. Representatives of any Federally-recognized Indian Tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the TVA. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Federally-recognized Indian Tribe stated in this notice may proceed.

DATES: Representatives of any Federally-recognized Indian Tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the TVA at the address in this notice by September 8, 2020.

ADDRESSES: Dr. Thomas O. Maher, Tennessee Valley Authority, 400 West Summit Hill Drive, WT11C, Knoxville, TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Tennessee Valley Authority, Knoxville, TN, and stored at the McClung Museum of Natural History and Culture (MM) at the University of Tennessee, Knoxville, TN. The human remains and associated funerary objects were excavated from 40BN74, the Cherry archeological site, in Benton County, TN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by TVA professional staff in consultation with representatives of the Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; The Chickasaw Nation; The Muscogee (Creek) Nation; The Osage Nation (previously listed as Osage Tribe); The Seminole Nation of Oklahoma; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma (hereafter referred to as ''The Consulted Tribes'').

History and Description of the Remains

Site 40BN74 was excavated as part of TVA's Big Sandy Creek dewatering project by the University of Tennessee, using labor and funds provided by the Works Progress Administration. Details regarding these excavations have not been published. A field report by Douglas Osborn regarding this site can be found at the MM and TVA. The human remains and associated funerary objects listed in this notice have been in the physical custody of the University of Tennessee since excavation.

During August and September of 1941, human remains representing, at minimum, 81 individuals were removed from site 40BN74, in Benton County, TN. These human remains represent 17 females, 17 males and 47 individuals of undeterminable sex. They also represent adults, sub-adults, and infants. No known individuals were identified. The 612 associated funerary objects include seven animal bones, five antler fragments, four antler projectile points, one antler section, three antler tools, one awl splinter, eight bone awls, one bone bead, four bone pins, three bone shaft wrenches, one bone whistle, one Busycon shell spoon, one chert awl, one chert blade, one chert knife, one conch shell dipper, one crinoid bead, one cut deer humerus, one deer metapodial bone, one discoidal shell bead, three dog burials, 158 gastropod beads, one horn drift, 18 huckleberry seeds, one Ledbetter projectile point, one mussel shell spoon, one pink quartzite bead, 11 projectile points, one projectile point base, one sample of red ochre, one rodent tooth, one scrapper fragment, two shells, three shell or bone beads, 26 shell beads, two shell pendants, 14 snail shells, 13 snake vertebrae, 140 spherical shells, one stone bead, one stone drill, one tubular pipe, one turtle plastron, two turtle shell bracelets, and 161 worked gastropod shells.

Site 40BN74 contained abundant pits (44) that Osborne divided into three types. One type comprised small circular or irregular-shaped pits that often contained burials. A second type included circular pits extending 2–4 feet into the subsoil that were not obviously fire pits. The third type was represented by very large pits that, as Osborne suggested, might be the remains of semi-subterranean pit houses.

In his 2014 dissertation, Thaddeus Bissett presented three radiocarbon dates from this site—6975 ± 90 BP, 6153 ± 77 BP, and 7088 ± 87 BP. According to Bissett, the available evidence indicates that the primary occupation of 40BN74 was during the Late Archaic.

Determinations Made by the Tennessee Valley Authority

Officials of the Tennessee Valley Authority have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on their presence in a prehistoric archeological site and osteological analysis.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 81 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 612 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.
- The Treaty of October 19, 1818, indicates that the land from which the cultural items were removed is the aboriginal land of The Chickasaw Nation.
- Pursuant to 43 CFR 10.11(c)(1)(ii), the disposition of the human remains may be to The Chickasaw Nation.
- Pursuant to 43 CFR 10.11(c)(4), the Tennessee Valley Authority has agreed to transfer control of the associated funerary objects to The Chickasaw Nation.

Additional Requestors and Disposition

Representatives of any Federally-recognized Indian Tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Thomas O. Maher, Tennessee Valley Authority, 400 West Summit Hill Drive, WT11C, Knoxville, TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov,* by September 8, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Chickasaw Nation may proceed.

The Tennessee Valley Authority is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: June 30, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–17171 Filed 8–5–20; 8:45 am]

BILLING CODE 4312–52–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 Variable Speed Wind Turbine Generators and Components Thereof, DN 3482;* 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 General Electric Company on July 31, 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 variable speed wind turbine generators and components thereof. The complaint names as respondents: Siemens Gamesa Renewable Energy Inc. of Orlando, Fl; Siemens Gamesa Renewable Energy A/S of Denmark; and Gamesa Electric, S.A.U. of Spain. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

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. 3482'') 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: August 3, 2020.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2020–17163 Filed 8–5–20; 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–1187]

Certain Electronic Devices With Optical Filters and Optical Sensor Systems and Components Thereof; Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation Based on Settlement; Termination of the Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''Commission'') has determined not to review an initial determination (''ID'') (Order No. 23) of the presiding administrative law judge (''ALJ'') granting a joint motion to terminate the investigation in its entirety based on settlement.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 27, 2019, based on a complaint filed by Viavi Solutions Inc. of San Jose, California (''Viavi''). 84 FR 71464 (Dec. 27, 2019). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices with optical filters and optical sensor systems and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 9,588,269; 9,945,995; and 10,222,526. *Id.* The Commission's notice of investigation named as respondents Optrontec Inc. of Changwon, Republic of Korea (''Optrontec''); and LG Electronics, Inc. of Seoul, Republic of Korea; LG Innotek Co., Ltd. of Seoul, Republic of Korea; and LG Electronics U.S.A., Inc. of Englewood Cliffs, New Jersey (collectively, ''LG''). *Id.* The Office of Unfair Import Investigations (''OUII'') is participating in this investigation. *Id.*

The Commission previously terminated the investigation with respect to LG based on settlement. Order No. 9 (Feb. 27, 2020), *not reviewed* Notice (Mar. 18, 2020). Optrontec was thus the sole remaining respondent in the investigation.

On June 19, 2020, Viavi and Optronic jointly moved to terminate the investigation based on settlement. On June 25, 2020, OUII filed a response in support of the motion.

On July 13, 2020, the ALJ issued the subject ID, granting the motion and terminating the investigation based on settlement. No petitions for review of the ID were filed.

The Commission has determined not to review the subject ID. The investigation is hereby terminated in its entirety.

The Commission vote for this determination took place on July 31, 2020.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 31, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–17140 Filed 8–5–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–854 (Remand)]

Certain Two-Way Global Satellite Communication Devices, System, and Components Thereof; Notice of Commission Determination To Deny a Petition To Rescind or Modify a Civil Penalty Order; Termination of Remand Proceeding

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to (1) deny a petition to rescind, or in the alternative, modify a civil penalty order; and (2) terminate the proceeding on remand from the U.S. Court of Appeals for the Federal Circuit.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted Inv. No. 337–TA–854 (Enforcement Proceeding) on May 24, 2013, based on an enforcement complaint filed on behalf of BriarTek IP, Inc. (''BriarTek'') of Alexandria, Virginia. 78 FR 31576–77 (May 24, 2013). The complaint alleged violations of the April 5, 2013, consent order (''the Consent Order'') issued in the underlying investigation by the continued practice of prohibited activities such as selling or offering for sale within the United States after importation any two–way global satellite communication devices, system, or components thereof that infringe one or more claims of U.S. Patent No. 7,991,380 (''the '380 patent''). The Commission's notice of institution of the enforcement proceeding named as respondents DeLorme Publishing Company, Inc. and DeLorme InReach LLC (collectively, ''DeLorme''), now known as DBN Holding, Inc. and BDN LLC, all of Yarmouth, Maine. The Office of Unfair Import Investigations (''OUII'') was also a party to the enforcement proceeding. *Id.*

On June 10, 2014, following review of the presiding administrative law judge's enforcement initial determination in the enforcement proceeding, the Commission issued a civil penalty order in the amount of $6,242,500 for DeLorme's violation of the Consent Order on 227 separate days. DeLorme appealed the Commission's final determination to the U.S. Court of Appeals for the Federal Circuit. During the pendency of the appeal, the U.S. District Court for the Eastern District of Virginia (''EDVA'') granted summary judgment in a declaratory judgment action filed by DeLorme against the patentee, finding the relevant claims of

the '380 patent to be invalid. After requesting and receiving supplemental briefing on the issue of the effect, if any, of affirming the EDVA summary judgment on the Commission's final determination, the Federal Circuit, on the same date, affirmed both the $6,242,500 Commission civil penalty order and the EDVA summary judgment of invalidity. *See DeLorme* v. *ITC,* 805 F.3d 1328 (Fed. Cir. 2015) (''*DeLorme I*''); *DeLorme Publishing Co.* v. *BriarTek IP, Inc.,* 622 Fed.Appx. 912 (Fed. Cir. 2015).

On December 22, 2015, following issuance of the Federal Circuit's decision in *DeLorme I,* DeLorme filed a petition to rescind, or in the alternative, to modify the civil penalty order under Commission Rule 210.76(a)(1) because of ''changed conditions,'' *i.e.,* the EDVA invalidity judgment and the affirmance of that judgment. Stating that the arguments raised by DeLorme involved issues that could have been raised in *DeLorme I* or were raised and rejected by the Federal Circuit in *DeLorme I,* the Commission denied DeLorme's petition based on res judicata. DeLorme appealed the Commission's final determination denying its petition to the Federal Circuit. The Court reversed the Commission's final determination and remanded the case for consideration of DeLorme's petition. *See DBN Holding, Inc.* v. *ITC,* 755 Fed.Appx. 993, 2018 WL 6181653 (Fed. Cir. Nov. 27, 2018) (''*DeLorme II*'') (finding that although there is no requirement that the civil penalty be rescinded because of the invalidity finding, the Commission nevertheless should have considered DeLorme's petition). The Federal Circuit issued its mandate on January 18, 2019.

On March 27, 2019, the Commission issued an order to the parties requesting briefing regarding whether the Commission should rescind or modify the civil penalty order in light of the final judgment of invalidity of the relevant claims of the '380 patent in accordance with *DeLorme II.* DeLorme, BriarTek, and OUII filed their initial submissions on April 25, April 26, and April 26, 2019, respectively. These parties filed their response submissions on May 12, May 13, and May 12, 2019, respectively.

Having reviewed the record in this investigation, including the parties' written submissions, the Commission has determined to deny DeLorme's petition to rescind, or in the alternative, modify the civil penalty order. The Commission has also issued an opinion explaining the basis for the Commission's action and has terminated the proceeding on remand from the Federal Circuit.

The Commission vote for this determination took place on July 31, 2020.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: July 31, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–17139 Filed 8–5–20; 8:45 am]

BILLING CODE 7020–02–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89439; File No. SR–NYSEAMER–2020–60]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Rule 6800 Series

July 31, 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 27, 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 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 the Rule 6800 Series, the Exchange's compliance rule (''Compliance Rule'') regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'')[3] to be consistent with an amendment to the CAT NMS Plan recently approved by the Commission. 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 purpose of this proposed rule change is to amend the Rule 6800 Series, the Compliance Rule regarding the CAT NMS Plan, to be consistent with an amendment to the CAT NMS Plan recently approved by the Commission.[4] The Commission approved an amendment to the CAT NMS Plan to amend the requirements for Firm Designated IDs in four ways: (1) To prohibit the use of account numbers as Firm Designated IDs for trading accounts that are not proprietary accounts; (2) to require that the Firm Designated ID for a trading account be persistent over time for each Industry Member so that a single account may be tracked across time within a single Industry Member; (3) to permit the use of relationship identifiers as Firm Designated IDs in certain circumstances; and (4) to permit the use of entity identifiers as Firm Designated IDs in certain circumstances (the ''FDID Amendment''). As a result, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 6810 to reflect the changes to the CAT NMS Plan regarding the requirements for Firm Designated IDs.

Rule 6810(r) defines the term ''Firm Designated ID'' to mean ''a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date.''

[1] 15 U.S.C. 78a.

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

[4] *See* Securities Exchange Act Release No. 89397 (July 24, 2020) (**Federal Register** publication pending).

(1) Prohibit Use of Account Numbers

The Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 6810(r) to provide that Industry Members may not use account numbers as the Firm Designated ID for trading accounts that are not proprietary accounts. Specifically, the Exchange proposes to add the following to the definition of a Firm Designated ID: ''provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account.''

(2) Persistent Firm Designated ID

The Exchange also proposes to amend the definition of ''Firm Designated ID'' in Rule 6810(r) to require a Firm Designated ID assigned by an Industry Member to a trading account to be persistent over time, not for each business day.[5] To effect this change, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 6810(r) to add ''and persistent'' after ''unique'' and delete ''for each business date'' so that the definition of ''Firm Designated ID'' would read, in relevant part, as follows:

> A unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository . . . where each such identifier is unique among all identifiers from any given Industry Member.

(3) Relationship Identifiers

The FDID Amendment also permits an Industry Member to provide a relationship identifier as the Firm Designated ID, rather than an identifier that represents a trading account, in certain scenarios in which an Industry Member does not have an account number available to its order handling and/or execution system at the time of order receipt (*e.g.,* certain institutional accounts, managed accounts, accounts for individuals). In such scenarios, the trading account structure may not be available when a new order is first received from a client and, instead, only an identifier representing the client's trading relationship is available. In these limited instances, the Industry Member may provide an identifier used by the Industry Member to represent the client's trading relationship with the Industry Member instead of an account number.

When a trading relationship is established at a broker-dealer for clients, the broker-dealer typically creates a parent account, under which additional subaccounts are created. However, in some cases, the broker-dealer establishes the parent relationship for a client using a relationship identifier as opposed to an actual parent account. The relationship identifier could be any of a variety of identifiers, such as a short name for a relevant individual or institution. This relationship identifier is established prior to any trading for the client. If a relationship identifier has been established rather than a parent account, and an order is placed on behalf of the client, any executed trades will be kept in a firm account (*e.g.,* a facilitation or average price account) until they are allocated to the proper subaccount(s), *i.e.,* the accounts associated with the parent relationship identifier connecting them to the client.

Relationship identifiers are used in circumstances in which the account structure is not available to the trading system at the time of order placement. The clients have established accounts prior to the trade that satisfy relevant regulatory obligations for opening accounts, such as Know Your Customer and other customer obligations. However, the order receipt workflows operate using relationship identifiers, not accounts.

For Firm Designated ID purposes, as with an identifier for a trading account, the relationship identifier must be persistent over time. The relationship identifier also must be unique among all identifiers from any given Industry Member. With these requirements, a single relationship could be tracked across time within a single Industry Member using the Firm Designated ID. In addition, the relationship identifier must be masked as the relationship identifier could be a name or otherwise provide an indication as to the identity of the relationship. The masking requirement would avoid potentially revealing the identity of the relationship.

An example of the use of a relationship identifier as a Firm Designated ID would be as follows: Suppose that Big Fund Manager is known in Industry Member A's systems as ''BFM1.'' When an order is placed by Big Fund Manager, the order is tagged to BFM1. Industry Member A could use a masked version of BFM1 in place of the Firm Designated ID representing a trading account when reporting a new order from Big Fund Manager instead of the account numbers to which executed shares/contracts will be allocated at a later time via a booking or other system. Similarly, another example of the use of a relationship identifier as a Firm Designated ID would involve an individual in place of the Big Fund Manager in the above example.

In accordance with the FDID Amendment, the Exchange proposes to amend the definition of a ''Firm Designated ID'' in Rule 6810(r) to permit Industry Members to provide a relationship identifier as the Firm Designated ID as described above. Specifically, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 6810(r) to state that a Firm Designated ID means, in relevant part, ''a unique and persistent relationship identifier when an Industry Member does not have an account number available to its order handling and/or execution system at the time of order receipt, provided, however, such identifier must be masked.''

(4) Entity Identifiers

The FDID Amendment also permits Industry Members to provide an entity identifier, rather than an identifier that represents a trading account, when an employee of the Industry Member is exercising discretion over multiple client accounts and creates an aggregated order for which a trading account number of the Industry Member is not available at the time of order origination. An entity identifier is an identifier of the Industry Member that represents the firm discretionary relationship with the client rather than a firm trading account.

The scenarios in which a firm uses an entity identifier are comparable to when a firm uses a relationship identifier (as described above) except the entity identifier represents the Industry Member rather than a client. As with relationship identifiers, entity identifiers are used in circumstances in which the account structure is not available to the trading system at the time of order placement. In this workflow, the Industry Member's order handling and/execution system does not have an account number at the time of order origination. The relevant clients that will receive an allocation of the execution have established accounts prior to the trade that satisfy relevant regulatory obligations for opening accounts, such as Know Your Customer and other customer obligations. However, the order origination

[5] If an Industry Member assigns a new account number or entity identifier to a client or customer due to a merger, acquisition or some other corporate action, then the Industry Member should create a new Firm Designated ID to identify the new account identifier/relationship identifier/entity identifier in use at the Industry Member for the entity. In addition, if a previously assigned Firm Designated ID is no longer in use by an Industry Member (*e.g.,* if the trading account associated with the Firm Designated ID has been closed), then an Industry Member may reuse the Firm Designated ID for another trading account. The Plan Processor will maintain a history of the use of each Firm Designated ID, including, for example, the effective dates of the Firm Designated ID with respect to each associated trading account.

workflows operate using entity identifiers, not accounts.

For Firm Designated ID purposes, as with the identifier for a trading account or a relationship, the entity identifier must be persistent over time. The entity identifier also must be unique among all identifiers from any given Industry Member. Each Industry Member must make its own risk determination as to whether it believes it is necessary to mask the entity identifier when using an entity identifier to report the Firm Designated ID to CAT.

An example of the use of an entity identifier as a Firm Designated ID would be when Industry Member 1 has an employee that is a registered representative that has discretion over several client accounts held at Industry Member 1. The registered representative places an order that he will later allocate to individual client accounts. At the time the order is placed, the trading system only knows it involves a representative of Industry Member 1 and it does not have a specific trading account that could be used for Firm Designated ID reporting. Therefore, Industry Member 1 could report IM1, its entity identifier, as the FDID with the new order.

In accordance with the FDID Amendment to the CAT NMS Plan, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 6810(r) to permit the use of an entity identifier as a Firm Designated ID as described above. Specifically, the Exchange proposes to amend the definition of a ''Firm Designated ID'' in Rule 6810(r) to state that a Firm Designated ID means, in relevant part, ''a unique and persistent entity identifier when an employee of an Industry Member is exercising discretion over multiple client accounts and creates an aggregated order for which a trading account number of the Industry Member is not available at the time of order origination.''

2. Statutory Basis

NYSE American believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[6] which require, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 6(b)(8) of the Act,[7] which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

NYSE American believes that this proposal is consistent with the Act because it is consistent with, and implements, a recent amendment to the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [8] To the extent that this proposal implements the Plan, and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

NYSE American does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. NYSE American notes that the proposed rule changes are consistent with a recent amendment to the CAT NMS Plan, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. NYSE American also notes that the amendment to the Compliance Rule will apply equally to all Industry Members that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing this amendment to their Compliance Rules. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

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 [9] and Rule 19b–4(f)(6) thereunder.[10] 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 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] 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 become operative by July 31, 2020. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it implements an amendment to the CAT NMS Plan approved by the Commission.[15] Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative as of July 31, 2020.[16]

At any time within 60 days of the filing of this 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 will institute proceedings to determine whether the proposed rule

[6] 15 U.S.C. 78f(b)(6).

[7] 15 U.S.C. 78f(b)(8).

[8] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See* Securities Exchange Act Release No. 89397 (July 24, 2020) (**Federal Register** publication pending).

[16] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–2020–60 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–2020–60. 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. 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–2020–60, and should be submitted on or before August 27, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–17132 Filed 8–5–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89446; File No. SR–CBOE–2020–073]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amend Chapter 7, Section B of the Rules, Which Is the Exchange's Compliance Rule (''Compliance Rule'') Regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'') To Be Consistent With an Amendment to the CAT NMS Plan Recently Approved by the Securities and Exchange Commission (''Commission'')

July 31, 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 30, 2020, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend Chapter 7, Section B of the Rules, which is the Exchange's compliance rule (''Compliance Rule'') regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'')[3] to be consistent with an amendment to the CAT NMS Plan recently approved by the Securities and Exchange Commission (the ''Commission''). The text of the proposed rule change is provided below.

(additions are *italicized;* deletions are [bracketed])

* * * * *

Rules of Cboe Exchange, Inc.

* * * * *

Rule 7.20. Definitions

For purposes of this Section B to Chapter 7:

* * * * *

(r) ''Firm Designated ID'' means *(1)* a unique *and persistent* identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, *provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account; (2) a unique and persistent relationship identifier when an Industry Member does not have an account number available to its order handling and/or execution system at the time of order receipt, provided, however, such identifier must be masked; or (3) a unique and persistent entity identifier when an employee of an Industry Member is exercising discretion over multiple client accounts and creates an aggregated order for which a trading account number of the Industry Member is not available at the time of order origination,* where each such identifier is unique among all identifiers from any given Industry Member[for each business date].

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend Chapter 7, Section B of the Rules, the Compliance Rule regarding the CAT NMS Plan, to be

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[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

consistent with an amendment to the CAT NMS Plan recently approved by the Commission.[4] The Commission approved an amendment to the CAT NMS Plan to amend the requirements for Firm Designated IDs in four ways: (1) To prohibit the use of account numbers as Firm Designated IDs for trading accounts that are not proprietary accounts; (2) to require that the Firm Designated ID for a trading account be persistent over time for each Industry Member so that a single account may be tracked across time within a single Industry Member; (3) to permit the use of relationship identifiers as Firm Designated IDs in certain circumstances; and (4) to permit the use of entity identifiers as Firm Designated IDs in certain circumstances (the ''FDID Amendment''). As a result, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 7.20 to reflect the changes to the CAT NMS Plan regarding the requirements for Firm Designated IDs.

Rule 7.20(r) defines the term ''Firm Designated ID'' to mean ''a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date.''

(1) Prohibit Use of Account Numbers

The Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 7.20(r) to provide that Industry Members may not use account numbers as the Firm Designated ID for trading accounts that are not proprietary accounts. Specifically, the Exchange proposes to add the following to the definition of a Firm Designated ID: ''provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account.''

(2) Persistent Firm Designated ID

The Exchange also proposes to amend the definition of ''Firm Designated ID'' in Rule 7.20(r) to require a Firm Designated ID assigned by an Industry Member to a trading account to be persistent over time, not for each business day.[5] To effect this change, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 7.20(r) to add ''and persistent'' after ''unique'' and delete ''for each business date'' so that the definition of ''Firm Designated ID'' would read, in relevant part, as follows:

> a unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository . . . where each such identifier is unique among all identifiers from any given Industry Member.

(3) Relationship Identifiers

The FDID Amendment also permits an Industry Member to provide a relationship identifier as the Firm Designated ID, rather than an identifier that represents a trading account, in certain scenarios in which an Industry Member does not have an account number available to its order handling and/or execution system at the time of order receipt (*e.g.,* certain institutional accounts, managed accounts, accounts for individuals). In such scenarios, the trading account structure may not be available when a new order is first received from a client and, instead, only an identifier representing the client's trading relationship is available. In these limited instances, the Industry Member may provide an identifier used by the Industry Member to represent the client's trading relationship with the Industry Member instead of an account number.

When a trading relationship is established at a broker-dealer for clients, the broker-dealer typically creates a parent account, under which additional subaccounts are created. However, in some cases, the broker-dealer establishes the parent relationship for a client using a relationship identifier as opposed to an actual parent account. The relationship identifier could be any of a variety of identifiers, such as a short name for a relevant individual or institution. This relationship identifier is established prior to any trading for the client. If a relationship identifier has been established rather than a parent account, and an order is placed on behalf of the client, any executed trades will be kept in a firm account (*e.g.,* a facilitation or average price account) until they are allocated to the proper subaccount(s), *i.e.,* the accounts associated with the parent relationship identifier connecting them to the client.

Relationship identifiers are used in circumstances in which the account structure is not available to the trading system at the time of order placement. The clients have established accounts prior to the trade that satisfy relevant regulatory obligations for opening accounts, such as Know Your Customer and other customer obligations. However, the order receipt workflows operate using relationship identifiers, not accounts.

For Firm Designated ID purposes, as with an identifier for a trading account, the relationship identifier must be persistent over time. The relationship identifier also must be unique among all identifiers from any given Industry Member. With these requirements, a single relationship could be tracked across time within a single Industry Member using the Firm Designated ID. In addition, the relationship identifier must be masked as the relationship identifier could be a name or otherwise provide an indication as to the identity of the relationship. The masking requirement would avoid potentially revealing the identity of the relationship.

An example of the use of a relationship identifier as a Firm Designated ID would be a follows: Suppose that Big Fund Manager is known in Industry Member A's systems as ''BFM1.'' When an order is placed by Big Fund Manager, the order is tagged to BFM1. Industry Member A could use a masked version of BFM1 in place of the Firm Designated ID representing a trading account when reporting a new order from Big Fund Manager instead of the account numbers to which executed shares/contracts will be allocated at a later time via a booking or other system. Similarly, another example of the use of a relationship identifier as a Firm Designated ID would involve an individual in place of the Big Fund Manager in the above example.

In accordance with the FDID Amendment, the Exchange proposes to amend the definition of a ''Firm Designated ID'' in Rule 7.20(r) to permit Industry Members to provide a relationship identifier as the Firm Designated ID as described above. Specifically, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 7.20(r) to state that a Firm Designated ID means, in relevant part, ''a unique and persistent relationship identifier when an Industry Member does not have an account number available to its order handling and/or execution system at the time of order receipt, provided, however, such identifier must be masked.''

[4] Securities Exchange Act Release No. 89397 (July 24, 2020) (**Federal Register** pending).

[5] If an Industry Member assigns a new account number or entity identifier to a client or customer due to a merger, acquisition or some other corporate action, then the Industry Member should create a new Firm Designated ID to identify the new account identifier/relationship identifier/entity identifier in use at the Industry Member for the entity. In addition, if a previously assigned Firm Designated ID is no longer in use by an Industry Member (*e.g.,* if the trading account associated with the Firm Designated ID has been closed), then an Industry Member may reuse the Firm Designated ID for another trading account. The Plan Processor will maintain a history of the use of each Firm Designated ID, including, for example, the effective dates of the Firm Designated ID with respect to each associated trading account.

(4) Entity Identifiers

The FDID Amendment also permits Industry Members to provide an entity identifier, rather than an identifier that represents a trading account, when an employee of the Industry Member is exercising discretion over multiple client accounts and creates an aggregated order for which a trading account number of the Industry Member is not available at the time of order origination. An entity identifier is an identifier of the Industry Member that represents the firm discretionary relationship with the client rather than a firm trading account.

The scenarios in which a firm uses an entity identifier are comparable to when a firm uses a relationship identifier (as described above) except the entity identifier represents the Industry Member rather than a client. As with relationship identifiers, entity identifiers are used in circumstances in which the account structure is not available to the trading system at the time of order placement. In this workflow, the Industry Member's order handling and/execution system does not have an account number at the time of order origination. The relevant clients that will receive an allocation of the execution have established accounts prior to the trade that satisfy relevant regulatory obligations for opening accounts, such as Know Your Customer and other customer obligations. However, the order origination workflows operate using entity identifiers, not accounts.

For Firm Designated ID purposes, as with the identifier for a trading account or a relationship, the entity identifier must be persistent over time. The entity identifier also must be unique among all identifiers from any given Industry Member. Each Industry Member must make its own risk determination as to whether it believes it is necessary to mask the entity identifier when using an entity identifier to report the Firm Designated ID to CAT.

An example of the use of an entity identifier as a Firm Designated ID would be when Industry Member 1 has an employee that is a registered representative that has discretion over several client accounts held at Industry Member 1. The registered representative places an order that he will later allocate to individual client accounts. At the time the order is placed, the trading system only knows it involves a representative of Industry Member 1 and it does not have a specific trading account that could be used for Firm Designated ID reporting. Therefore, Industry Member 1 could report IM1, its entity identifier, as the FDID with the new order.

In accordance with the FDID Amendment, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 7.20(r) to permit the use of an entity identifier as a Firm Designated ID as described above. Specifically, the Exchange proposes to amend the definition of a ''Firm Designated ID'' in Rule 7.20(r) to state that a Firm Designated ID means, in relevant part, ''a unique and persistent entity identifier when an employee of an Industry Member is exercising discretion over multiple client accounts and creates an aggregated order for which a trading account number of the Industry Member is not available at the time of order origination.''

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that this proposal is consistent with the Act because it is consistent with, and implements, a recent amendment to the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the Commission noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.''[9] To the extent that this proposal implements the Plan, and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the Commission, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule changes are consistent with a recent amendment to the CAT NMS Plan, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the FDID Amendment will apply equally to all Industry Members that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing this amendment to their Compliance Rules. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11] 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 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

[9] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

of the Act [12] and Rule 19b–4(f)(6)(iii) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[15] 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 become operative by July 31, 2020. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it implements an amendment to the CAT NMS Plan approved by the Commission.[16] Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative as of July 31, 2020.[17]

At any time within 60 days of the filing of this 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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2020–073 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR-*CBOE–2020–073.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2020–073, and should be submitted on or before August 27, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–17135 Filed 8–5–20; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] *See* Securities Exchange Act Release No. 89397 (July 24, 2020) (**Federal Register** publication pending).

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89437; File No. SR–BOX–2020–30]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Make a Number of Non-Substantive Changes to the Rulebook

July 31, 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 22, 2020, BOX Exchange LLC (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 the Substance of the Proposed Rule Change

The Exchange proposes to make a number of non-substantive changes to the rulebook. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com.*

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to make a number of non-substantive changes to the rulebook. The Exchange believes these changes

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

are necessary to correct inadvertent oversights to internal cross-references and other minor changes of a non-substantive nature in order to provide greater accuracy and clarity to the rulebook.

First, the Exchange is proposing to amend the BOX Rule 7110 (Order Entry). Specifically, the Exchange is proposing to remove the language ''and strategies'' in order to clarify that no complex orders will be accepted by the system during the pre-opening period.[3] The Exchange discovered the inadvertent inclusion during compliance testing of the rulebook and now seeks to amend the rule language to match how the BOX trading system currently functions.

Next, the Exchange proposes to correct two internal cross references contained in the Exchange's rulebook. Specifically, within BOX Rule 7600(a)(4), the internal cross reference to the defined term Complex Orders must be updated from Rule 7240(a)(5) to Rule 7240(a)(7). Similarly, in Rule IM–8050–3, the internal cross-reference to Rule 100(a)(55) must be updated to Rule 100(a)(56).[4] The Exchange believes that these non-substantive changes will enhance the accuracy of the Exchange's rules.

Lastly, the Exchange previously submitted a rule filing noticed by the Commission for immediate effectiveness, where the Exchange proposed to make a number of non-substantive changes to the rulebook, including replacing the term ''Options Participant'' with ''Participant.'' [5] The rule proposal specified that certain Exchange rules were not options specific and therefore the Exchange deemed it appropriate to replace ''Options Participant'' with ''Participant'' to provide more general coverage. The proposed change was intended to clarify that the Exchange rules applied to Participants of the Exchange regardless of whether they participated in the trading of options. In doing so, the Exchange inadvertently overlooked additional references within the following paragraphs, which should have also been updated. The Exchange now proposes to amend these rules as it relates to the usage of the term ''Options Participant'' as follows:

- The Exchange proposes to replace ''Options Participant'' with ''Participant'' in Rule 10050(c) (Regulatory Cooperation), which details right of the Exchange to collect testimony and additional documentation in connection with investigations or disciplinary proceedings.
- The Exchange also proposes to replace ''Options Participant'' with ''Participant'' in Rule 12030(a)(1) (Letters of Consent) which outlines when the Exchange may dispose of a matter concerning violative conduct, pursuant to a letter of consent, in place of normal disciplinary procedures.
- Lastly, the Exchange also proposes to replace ''Options Participant'' with ''Participant'' in Rule 14000(b) which covers jurisdictional scope of disputes as it relates to Exchange arbitration.[6]

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[7] in general, and Section 6(b)(5) of the Act,[8] 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, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring that market participants can easily navigate, understand and comply with the Exchange's rulebook. The Exchange believes that the proposed rule change enables the Exchange to continue to enforce the Exchange's rules. The Exchange believes that none of the proposed changes discussed herein alter the application of any rules, or how the trading system currently functions. As such, the proposed amendments would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national exchange system. Further, the Exchange believes that, by ensuring the rulebook accurately reflects the intention of the Exchange's rules, the proposed rule change reduces potential investor or market participant confusion.

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. In this regard and as indicated above, the Exchange notes that the proposed changes will not alter the substance or application of any of the Exchange's rules. Therefore, the proposed changes will have no impact on competition as they are not designed to address any competitive issues but rather are designed to make clarifying, non-substantive changes.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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 [9] and Rule 19b–4(f)(6) thereunder.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[3] *See* BOX Rule 7070(a).

[4] BOX Rule 100(a)(56) defines ''quote'' or ''quotation'' as a bid or offer entered by a Market Maker as a firm order that updates the Market Maker's previous bid or offer, if any.

[5] *See* Securities Exchange Act Release No. 83895 (August 21, 2018), 83 FR 43711 (August 27, 2018) (Notice of Filing and Immediate Effectiveness of SR–BOX–2018–27).

[6] The Exchange notes that in paragraph 14000(b) the Exchange is also proposing to delete duplicative text ''except that'', and correct a spelling error by changing ''statue'' to ''statute'' in the rule text.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

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–BOX–2020–30 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–BOX–2020–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2020–30, and should be submitted on or before August 27, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–17130 Filed 8–5–20; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89438; File No. SR–NYSEArca–2020–51]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To List and Trade Shares of Natixis Vaughan Nelson Select ETF and Natixis Vaughan Nelson MidCap ETF Under NYSE Arca Rule 8.601–E

July 31, 2020.

I. Introduction

On June 12, 2020, NYSE Arca, Inc. (''NYSE Arca'' 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 list and trade shares (''Shares'') of the following under NYSE Arca Rule 8.601–E (Active Proxy Portfolio Shares): Natixis Vaughan Nelson Select ETF and Natixis Vaughan Nelson MidCap ETF (each a ''Fund'' and, collectively, the ''Funds''). On June 17, 2020, the Exchange filed Amendment No. 1 to the proposed rule change, which superseded and replaced the proposed rule change in its entirety. On June 19, 2020, the Exchange filed Amendment No. 2 to the proposed rule change, which superseded and replaced the proposed rule change, as modified by Amendment No. 1, in its entirety. The proposed rule change, as modified by Amendment No. 2, was published for comment in the **Federal Register** on June 29, 2020.[3] The Commission has received no comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 2.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 89127 (June 23, 2020), 85 FR 39000 (''Notice'').

II. Description of the Proposed Rule Change, as Modified by Amendment No. 2[4]

The Exchange is proposing to list and trade Shares of the Funds under NYSE Arca Rule 8.601–E (Active Proxy Portfolio Shares).[5] Each Fund will be a series of Natixis ETF Trust II (''Trust''), which will be registered with the Commission as an open-end management investment company.[6] Natixis Advisors, L.P. (''Adviser'') will be the investment adviser to the Funds and Vaughan Nelson Investment Management, L.P. will be the subadviser (''Sub-Adviser'') for the Funds. ALPS Distributors, Inc. will act as the distributor and principal underwriter (''Distributor'') for the Funds.

The Exchange represents that the Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer and has implemented and will maintain a ''fire wall'' with respect to

[4] Additional information regarding the Shares and the Funds can be found in the Notice, *supra* note 3, and the Registration Statement, *infra* note 6.

[5] The term ''Active Proxy Portfolio Share'' means a security that (a) is issued by an investment company registered under the Investment Company Act of 1940 (''Investment Company'') organized as an open-end management investment company that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified minimum number of shares, or multiples thereof, in return for a deposit by the purchaser of the Proxy Portfolio and/or cash with a value equal to the next determined net asset value (''NAV''); (c) when aggregated in the same specified number of Active Proxy Portfolio Shares, or multiples thereof, may be redeemed at a holder's request in return for the Proxy Portfolio and/or cash to the holder by the issuer with a value equal to the next determined NAV; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter. *See* NYSE Arca Rule 8.601–E(c)(1). *See also* note 7 *infra* regarding the definition of ''Proxy Portfolio.'' The Commission recently approved the Exchange's proposed rule change to adopt NYSE Arca Rule 8.601–E to permit the listing and trading of Active Proxy Portfolio Shares. *See* Securities Exchange Act Release No. 89185 (June 29, 2020), 85 FR 40328 (July 6, 2020) (SR–NYSEArca–2019–095) (''Active Proxy Portfolio Shares Order'').

[6] The Exchange states that the Trust is registered under the Investment Company Act of 1940 (''1940 Act''). On April 24, 2020, the Trust filed a registration statement on Form N–1A under the Securities Act of 1933 (''1933 Act'') (15 U.S.C. 77a), and under the 1940 Act relating to the Funds (File Nos. 333–235466 and 811–23500) (''Registration Statement''). The Trust and NYSE Group, Inc. filed a Seventh Amended and Restated Application for an Order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812–14870), dated October 21, 2019 (''Application''). On November 14, 2019, the Commission issued a notice regarding the Application. Investment Company Release No. 33684 (File No. 812–14870). On December 10, 2019, the Commission issued an order (''Exemptive Order'') under the 1940 Act granting the exemptions requested in the Application (Investment Company Act Release No. 33711 (December 10, 2019)).

such broker-dealer affiliate regarding access to information concerning the composition of and/or changes to a Fund's Actual Portfolio and/or Proxy Portfolio.[7] The Exchange represents that the Sub-Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer and the Sub-Adviser has implemented and will maintain a ''fire wall'' with respect to its broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the applicable Fund's Actual Portfolio and/or Proxy Portfolio. In the event (a) the Adviser or Sub-Adviser becomes registered as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer, or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a Fund's Actual Portfolio and/or Proxy Portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding a Fund's Actual Portfolio and/or Proxy Portfolio or changes thereto. In addition, the Exchange represents that any person related to the Adviser, Sub-Adviser or a Fund who makes decisions pertaining to a Fund's Actual Portfolio or the Proxy Portfolio or has access to non-public information regarding a Fund's Actual Portfolio and/or the Proxy Portfolio or changes thereto are subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding a Fund's Actual Portfolio and/or the Proxy Portfolio or changes thereto.

The Exchange further represents that any person or entity, including any service provider for a Fund, who has access to non-public information regarding a Fund's Actual Portfolio or the Proxy Portfolio or changes thereto, will be subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding a Fund's Actual Portfolio and/or the Proxy Portfolio or changes thereto. Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity has erected and will maintain a ''fire wall'' between the person or entity and the broker-dealer with respect to access to information concerning the composition and/or changes to a Fund's Actual Portfolio and/or Proxy Portfolio.

A. Description of the Funds

According to the Exchange, the Adviser believes a Fund would allow for efficient trading of Shares through an effective Fund portfolio transparency substitute and publication of related information metrics, while still shielding the identity of the full Fund portfolio contents to protect a Fund's performance-seeking strategies. Even though a Fund would not publish its full portfolio contents daily, the Adviser believes that the NYSE Proxy Portfolio Methodology would allow market participants to assess the intraday value and associated risk of a Fund's Actual Portfolio. As a result, the Adviser believes that investors would be able to purchase and sell Shares in the secondary market at prices that are close to their NAV.

The Exchange states that the Funds will utilize a proxy portfolio methodology—the ''NYSE Proxy Portfolio Methodology''—that would allow market participants to assess the intraday value and associated risk of a Fund's Actual Portfolio and thereby facilitate the purchase and sale of Shares by investors in the secondary market at prices that do not vary materially from their NAV.[8] The NYSE Proxy Portfolio Methodology would utilize creation of a Proxy Portfolio for hedging and arbitrage purposes.[9]

Each of the Fund's holdings will conform to the permissible investments as set forth in the Application and Exemptive Order and the holdings will be consistent with all requirements in the Application and Exemptive Order.[10] Any foreign common stocks held by a Fund will be traded on an exchange that is a member of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement.

1. Natixis Vaughan Nelson Select ETF

According to the Exchange, the Fund's investment objective is to seek long-term capital appreciation. The Fund, under normal market conditions,[11] will invest primarily in equity securities, including exchange-traded common stocks, exchange-traded preferred stocks and exchange-traded real estate investment trusts (''REITs'').

2. Natixis Vaughan Nelson MidCap ETF

According to the Exchange, the Fund's investment objective is to seek long-term capital appreciation. The Fund, under normal market conditions, will invest primarily in companies that, at the time of purchase, have market capitalizations either within the capitalization range of the Russell Midcap® Value Index, an unmanaged index that measures the performance of companies with lower price-to-book ratios and lower forecasted growth values within the broader Russell Midcap Index, or of $15 billion or less. Equity securities that the Fund may invest in may take the form of exchange-traded stock in corporations and exchange-traded REITs or other exchange-traded trusts and similar securities representing direct or indirect ownership interests in business organizations.

3. Investment Restrictions

The Shares of the Funds will conform to the initial and continued listing criteria under NYSE Arca Rule 8.601–E. Each Fund's holdings will be limited to and consistent with permissible holdings as described in the Application

[7] The term ''Actual Portfolio'' means the identities and quantities of the securities and other assets held by the Investment Company that shall form the basis for the Investment Company's calculation of NAV at the end of the business day. *See* NYSE Arca Rule 8.601–E(c)(2). The term ''Proxy Portfolio'' means a specified portfolio of securities, other financial instruments and/or cash designed to track closely the daily performance of the Actual Portfolio of a series of Active Proxy Portfolio Shares as provided in the exemptive relief pursuant to the 1940 Act applicable to such series. *See* NYSE Arca Rule 8.601–E(c)(3).

[8] The NYSE Proxy Portfolio Methodology is owned by the NYSE Group, Inc. and licensed for use by the Funds. NYSE Group, Inc. is not affiliated with the Funds, Adviser or Distributor. Not all series of Active Proxy Portfolio Shares utilize the NYSE Proxy Portfolio Methodology.

[9] With respect to the Funds, the Funds will have in place policies and procedures regarding the construction and composition of their respective Proxy Portfolio. Such policies and procedures will be covered by a Fund's compliance program and other requirements under Rule 38a–1 under the 1940 Act.

[10] Pursuant to the Application and Exemptive Order, the permissible investments for each Fund include only the following instruments: Exchange-traded funds (''ETFs'') traded on a U.S. exchange; exchange-traded notes (''ETNs'') traded on a U.S. exchange; U.S. exchange-traded common stocks; common stocks listed on a foreign exchange that trade on such exchange contemporaneously with the Shares (''foreign common stocks'') in the Exchange's Core Trading Session (normally 9:30 a.m. and 4:00 p.m. Eastern time (''E.T.'')); U.S. exchange-traded preferred stocks; U.S. exchange-traded American Depositary Receipts (''ADRs''); U.S. exchange-traded real estate investment trusts; U.S. exchange-traded commodity pools; U.S. exchange-traded metals trusts; U.S. exchange-traded currency trusts; and U.S. exchange-traded futures that trade contemporaneously with a Fund's Shares. In addition, a Fund may hold cash and cash equivalents (short-term U.S. Treasury securities, government money market funds, and repurchase agreements). A Fund will not hold short positions or invest in derivatives other than U.S. exchange-traded futures, will not borrow for investment purposes, and will not purchase any securities that are illiquid investments at the time of purchase.

[11] The term ''normal market conditions'' is defined in NYSE Arca Rule 8.601–E(c)(5).

and all requirements in the Application and Exemptive Order.[12] Each Fund's investments, including derivatives, will be consistent with its investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, a Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*e.g.,* 2X or –3X) of a Fund's primary broad-based securities benchmark index (as defined in Form N–1A).[13]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the Act and rules and regulations thereunder applicable to a national securities exchange.[14] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 2 is consistent with Section 6(b)(5) of the Act,[15] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposal is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading in the Shares when a reasonable degree of certain pricing transparency cannot be assured. As such, the Commission believes the proposal is reasonably designed to maintain a fair and orderly market for trading the Shares. The Commission also finds that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act, which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities.

Specifically, prior to commencement of trading in the Shares, the Exchange will obtain a representation from the Adviser that the NAV per Share of each Fund will be calculated daily and that the NAV, Proxy Portfolio, and Actual Portfolio for each Fund will be made available to all market participants at the same time.[16] Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Quotation and last-sale information for the Shares, ETFs, ETNs, U.S. exchange-traded common stocks, preferred stocks, and ADRs will be available via the Consolidated Tape Association high-speed line or from the exchange on which such securities trade. Price information for futures, foreign stocks, and cash equivalents is available through major market data vendors. The Funds' website will include additional information updated on a daily basis, including, on a per Share basis for each Fund, the prior business day's NAV, the closing price or bid/ask price at the time of calculation of such NAV, and a calculation of the premium or discount of the closing price or bid/ask price against such NAV. The website will also disclose the percentage weight overlap between the holdings of the Proxy Portfolio compared to the Actual Portfolio holdings for the prior business day, and any other information regarding premiums and discounts and the bid/ask spread for a Fund as may be required for other ETFs under Rule 6c–11 under the 1940 Act. The Proxy Portfolio holdings for each Fund (including the identity and quantity of investments in the Proxy Portfolio) will be publicly available on the Funds' website before the commencement of trading in Shares on each business day and the Funds' website will disclose the information required under NYSE Arca Rule 8.601–E(c)(3).[17] The website and information will be publicly available at no charge.

In addition, intraday pricing information for all constituents of the Proxy Portfolio for each Fund that are exchange-traded, which includes all eligible instruments except cash and cash equivalents, will be available on the exchanges on which they are traded and through subscription services, and that intraday pricing information for cash equivalents will be available through subscription services and/or pricing services.

The Commission also believes that the Exchange's rules regarding trading halts help to ensure the maintenance of fair and orderly markets for the Shares. Specifically, pursuant to its rules, the Exchange may consider all relevant factors in exercising its discretion to halt trading in the Shares and will halt trading in the Shares under the conditions specified in NYSE Arca Rule 7.12–E. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, including (1) the extent to which trading is not occurring in the securities and/or the financial instruments composing the Proxy Portfolio and/or Actual Portfolio; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[18] Trading in the Shares also will be subject to NYSE Arca Rule 8.601–E(d)(2)(D), which sets forth additional circumstances under which trading in the Shares will be halted.

The Commission also believes that the proposal is reasonably designed to help prevent fraudulent and manipulative acts and practices. Specifically:

- The Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer and has implemented and will maintain a ''fire wall'' with respect to such broker-dealer affiliate regarding access to information concerning the composition of and/or changes to a Fund's Actual Portfolio and/or Proxy Portfolio;
- The Sub-Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer and has implemented and will maintain a ''fire wall'' with respect to its broker-dealer affiliate regarding access to information concerning the composition of and/or changes to a Fund's Actual Portfolio and/or Proxy Portfolio.
- Any person related to the Adviser, Sub-Adviser or a Fund who makes decisions pertaining to a Fund's Actual Portfolio or the Proxy Portfolio or who has access to non-public information regarding a Fund's Actual Portfolio and/or the Proxy Portfolio or changes thereto are subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding a Fund's Actual

[12] *See* note 10, *supra.*

[13] A Fund's broad-based securities benchmark index will be identified in a future amendment to its Registration Statement following a Fund's first full calendar year of performance.

[14] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f(b)(5).

[16] *See* NYSE Arca Rule 8.601–E(d)(1)(B).

[17] *See* NYSE Arca Rule 8.601–E(c)(3), which requires that the website for each series of Active Proxy Portfolio Shares shall disclose the information regarding the Proxy Portfolio as provided in the exemptive relief pursuant to the 1940 Act applicable to such series, including the following, to the extent applicable: (i) Ticker symbol; (ii) CUSIP or other identifier; (iii) description of holding; (iv) quantity of each security or other asset held; and (v) percentage weighting of the holding in the portfolio.

[18] *See* NYSE Arca Rule 8.601–E(d)(2)(D)(i).

Portfolio and/or the Proxy Portfolio or changes thereto;

• In the event (a) the Adviser or Sub-Adviser becomes registered as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer, or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition of and/or changes to a Fund's Actual Portfolio and/or Proxy Portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding a Fund's Actual Portfolio and/or Proxy Portfolio or changes thereto; and

• Any person or entity, including any service provider for a Fund, who has access to non-public information regarding a Fund's Actual Portfolio or the Proxy Portfolio or changes thereto will be subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding a Fund's Actual Portfolio and/or the Proxy Portfolio or changes thereto, and if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity has erected and will maintain a ''fire wall'' between the person or entity and the broker-dealer with respect to access to information concerning the composition of and/or changes to a Fund's Actual Portfolio and/or Proxy Portfolio.

Finally, trading in the Shares will be subject to the existing trading surveillances, administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange,[19] and the Exchange states that these surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

The Commission finds that the following support the listing and trading of the Shares:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.601–E.

(2) A minimum of 100,000 Shares for each Fund will be outstanding at the commencement of trading on the Exchange.

(3) The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed, and may obtain information, regarding trading in the Shares and underlying exchange-traded instruments with other markets and other entities that are members of the ISG. In addition, the Exchange may obtain information regarding trading in the Shares and underlying exchange-traded instruments from markets and other entities with which the Exchange has in place a comprehensive surveillance sharing agreement. Any foreign common stocks held by a Fund will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

(4) The Exchange has appropriate rules to facilitate trading in the Shares during all trading sessions.

(5) For initial and continued listing, the Funds will be in compliance with Rule 10A–3 under the Act.[20]

(6) Each Fund's holdings will conform to the permissible investments as set forth in the Application and Exemptive Order and the holdings will be consistent with all requirements set forth in the Application and Exemptive Order. Each Fund's investments, including derivatives, will be consistent with its investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage).

(7) With respect to Active Proxy Portfolio Shares, all of the Exchange member obligations relating to product description and prospectus delivery requirements will continue to apply in accordance with Exchange rules and federal securities laws, and the Exchange and FINRA will continue to monitor Exchange members for compliance with such requirements.

Pursuant to Commentary .01 to NYSE Arca Rule 8.601–E, all statements and representations made in the filing regarding: (1) The description of the portfolio; (2) limitations on portfolio holdings; or (3) the applicability of Exchange listing rules specified in the filing constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer must notify the Exchange of any failure by a Fund to comply with the continued listing requirements and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor[21] for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[22] that the proposed rule change (SR–NYSEArca–2020–51), as modified by Amendment No. 2, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–17131 Filed 8–5–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89441; File No. SR–FINRA–2020–023]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the FINRA Rule 6800 Series (Consolidated Audit Trail Compliance Rule)

July 31, 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 30, 2020, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit

[19] *See* NYSE Arca Rule 8.601–E, Commentary .03, which requires, as part of the surveillance procedures for Active Proxy Portfolio Shares, a Fund's investment adviser to, upon request by the Exchange or FINRA, on behalf of the Exchange, make available to the Exchange or FINRA the daily Actual Portfolio holdings of the Fund.

[20] *See* 17 CFR 240.10A–3.

[21] The Commission notes that certain proposals for the listing and trading of exchange-traded products include a representation that the exchange will ''surveil'' for compliance with the continued listing requirements. *See, e.g.,* Securities Exchange Act Release No. 77499 (April 1, 2016), 81 FR 20428, 20432 (April 7, 2016) (SR–BATS–2016–04). In the context of this representation, it is the Commission's view that ''monitor'' and ''surveil'' both mean ongoing oversight of compliance with the continued listing requirements. Therefore, the Commission does not view ''monitor'' as a more or less stringent obligation than ''surveil'' with respect to the continued listing requirements.

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 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

FINRA is proposing to amend the FINRA Rule 6800 Series, FINRA's compliance rule (''Compliance Rule'') regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'') [3] to be consistent with an amendment to the CAT NMS Plan recently approved by the Commission.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the Rule 6800 Series, the Compliance Rule regarding the CAT NMS Plan, to be consistent with an amendment to the CAT NMS Plan recently approved by the Commission.[4] The Commission approved an amendment to the CAT NMS Plan to amend the requirements for Firm Designated IDs in four ways: (1) To prohibit the use of account numbers as Firm Designated IDs for trading accounts that are not proprietary accounts; (2) to require that the Firm Designated ID for a trading account be persistent over time for each Industry Member so that a single account may be tracked across time within a single Industry Member; (3) to permit the use of relationship identifiers as Firm Designated IDs in certain circumstances; and (4) to permit the use of entity identifiers as Firm Designated IDs in certain circumstances (the ''FDID Amendment''). As a result, FINRA proposes to amend the definition of ''Firm Designated ID'' in Rule 6810 to reflect the changes to the CAT NMS Plan regarding the requirements for Firm Designated IDs.

Rule 6810(r) defines the term ''Firm Designated ID'' to mean ''a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date.''

(1) Prohibit Use of Account Numbers

FINRA proposes to amend the definition of ''Firm Designated ID'' in Rule 6810(r) to provide that Industry Members may not use account numbers as the Firm Designated ID for trading accounts that are not proprietary accounts. Specifically, FINRA proposes to add the following to the definition of a Firm Designated ID: ''provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account.''

(2) Persistent Firm Designated ID

FINRA also proposes to amend the definition of ''Firm Designated ID'' in Rule 6810(r) to require a Firm Designated ID assigned by an Industry Member to a trading account to be persistent over time, not for each business day.[5] To effect this change, FINRA proposes to amend the definition of ''Firm Designated ID'' in Rule 6810(r) to add ''and persistent'' after ''unique'' and delete ''for each business date'' so that the definition of ''Firm Designated ID'' would read, in relevant part, as follows:

> A unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository . . . where each such identifier is unique among all identifiers from any given Industry Member.

(3) Relationship Identifiers

The FDID Amendment also permits an Industry Member to provide a relationship identifier as the Firm Designated ID, rather than an identifier that represents a trading account, in certain scenarios in which an Industry Member does not have an account number available to its order handling and/or execution system at the time of order receipt (*e.g.,* certain institutional accounts, managed accounts, accounts for individuals). In such scenarios, the trading account structure may not be available when a new order is first received from a client and, instead, only an identifier representing the client's trading relationship is available. In these limited instances, the Industry Member may provide an identifier used by the Industry Member to represent the client's trading relationship with the Industry Member instead of an account number.

When a trading relationship is established at a broker-dealer for clients, the broker-dealer typically creates a parent account, under which additional subaccounts are created. However, in some cases, the broker-dealer establishes the parent relationship for a client using a relationship identifier as opposed to an actual parent account. The relationship identifier could be any of a variety of identifiers, such as a short name for a relevant individual or institution. This relationship identifier is established prior to any trading for the client. If a relationship identifier has been established rather than a parent account, and an order is placed on behalf of the client, any executed trades will be kept in a firm account (*e.g.,* a facilitation or average price account) until they are allocated to the proper subaccount(s), *i.e.,* the accounts associated with the parent relationship identifier connecting them to the client.

Relationship identifiers are used in circumstances in which the account structure is not available to the trading system at the time of order placement. The clients have established accounts prior to the trade that satisfy relevant regulatory obligations for opening accounts, such as Know Your Customer and other customer obligations. However, the order receipt workflows operate using relationship identifiers, not accounts.

For Firm Designated ID purposes, as with an identifier for a trading account, the relationship identifier must be persistent over time. The relationship identifier also must be unique among all identifiers from any given Industry Member. With these requirements, a single relationship could be tracked

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

[4] *See* Securities Exchange Act Release No. 89397 (July 24, 2020), 85 FR 45941 (July 30, 2020).

[5] If an Industry Member assigns a new account number or entity identifier to a client or customer due to a merger, acquisition or some other corporate action, then the Industry Member should create a new Firm Designated ID to identify the new account identifier/relationship identifier/entity identifier in use at the Industry Member for the entity. In addition, if a previously assigned Firm Designated ID is no longer in use by an Industry Member (*e.g.,* if the trading account associated with the Firm Designated ID has been closed), then an Industry Member may reuse the Firm Designated ID for another trading account. The Plan Processor will maintain a history of the use of each Firm Designated ID, including, for example, the effective dates of the Firm Designated ID with respect to each associated trading account.

across time within a single Industry Member using the Firm Designated ID. In addition, the relationship identifier must be masked as the relationship identifier could be a name or otherwise provide an indication as to the identity of the relationship. The masking requirement would avoid potentially revealing the identity of the relationship.

An example of the use of a relationship identifier as a Firm Designated ID would be as follows: Suppose that Big Fund Manager is known in Industry Member A's systems as ''BFM1.'' When an order is placed by Big Fund Manager, the order is tagged to BFM1. Industry Member A could use a masked version of BFM1 in place of the Firm Designated ID representing a trading account when reporting a new order from Big Fund Manager instead of the account numbers to which executed shares/contracts will be allocated at a later time via a booking or other system. Similarly, another example of the use of a relationship identifier as a Firm Designated ID would involve an individual in place of the Big Fund Manager in the above example.

In accordance with the FDID Amendment, FINRA proposes to amend the definition of a ''Firm Designated ID'' in Rule 6810(r) to permit Industry Members to provide a relationship identifier as the Firm Designated ID as described above. Specifically, FINRA proposes to amend the definition of ''Firm Designated ID'' in Rule 6810(r) to state that a Firm Designated ID means, in relevant part, ''a unique and persistent relationship identifier when an Industry Member does not have an account number available to its order handling and/or execution system at the time of order receipt, provided, however, such identifier must be masked.''

(4) Entity Identifiers

The FDID Amendment also permits Industry Members to provide an entity identifier, rather than an identifier that represents a trading account, when an employee of the Industry Member is exercising discretion over multiple client accounts and creates an aggregated order for which a trading account number of the Industry Member is not available at the time of order origination. An entity identifier is an identifier of the Industry Member that represents the firm discretionary relationship with the client rather than a firm trading account.

The scenarios in which a firm uses an entity identifier are comparable to when a firm uses a relationship identifier (as described above) except the entity identifier represents the Industry Member rather than a client. As with relationship identifiers, entity identifiers are used in circumstances in which the account structure is not available to the trading system at the time of order placement. In this workflow, the Industry Member's order handling and/or execution system does not have an account number at the time of order origination. The relevant clients that will receive an allocation of the execution have established accounts prior to the trade that satisfy relevant regulatory obligations for opening accounts, such as Know Your Customer and other customer obligations. However, the order origination workflows operate using entity identifiers, not accounts.

For Firm Designated ID purposes, as with the identifier for a trading account or a relationship, the entity identifier must be persistent over time. The entity identifier also must be unique among all identifiers from any given Industry Member. Each Industry Member must make its own risk determination as to whether it believes it is necessary to mask the entity identifier when using an entity identifier to report the Firm Designated ID to CAT.

An example of the use of an entity identifier as a Firm Designated ID would be when Industry Member 1 has an employee that is a registered representative that has discretion over several client accounts held at Industry Member 1. The registered representative places an order that he will later allocate to individual client accounts. At the time the order is placed, the trading system only knows it involves a representative of Industry Member 1 and it does not have a specific trading account that could be used for Firm Designated ID reporting. Therefore, Industry Member 1 could report IM1, its entity identifier, as the FDID with the new order.

In accordance with the FDID Amendment, FINRA proposes to amend the definition of ''Firm Designated ID'' in Rule 6810(r) to permit the use of an entity identifier as a Firm Designated ID as described above. Specifically, FINRA proposes to amend the definition of ''Firm Designated ID'' in Rule 6810(r) to state that a Firm Designated ID means, in relevant part, ''a unique and persistent entity identifier when an employee of an Industry Member is exercising discretion over multiple client accounts and creates an aggregated order for which a trading account number of the Industry Member is not available at the time of order origination.''

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so the proposed rule change can become operative on the date of filing.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[6] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(b)(9) of the Act,[7] which requires that FINRA rules not impose any burden on competition that is not necessary or appropriate.

FINRA believes that the proposed rule change is consistent with the Act because it is consistent with and implements a recent amendment to the CAT NMS Plan and is designed to assist FINRA and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.''[8] To the extent that this proposed rule change implements the Plan and applies specific requirements to Industry Members, FINRA believes that the proposed rule change furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA notes that the proposed rule change is consistent with a recent amendment to the CAT NMS Plan and is designed to assist FINRA in meeting its regulatory obligations pursuant to the Plan. FINRA also notes that the FDID Amendment will apply equally to all Industry Members that trade NMS Securities and

[6] 15 U.S.C. 78*o*–3(b)(6).

[7] 15 U.S.C. 78*o*–3(b)(9).

[8] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

OTC Equity Securities. FINRA anticipates no new costs to member firms reporting to the CAT as a result of this proposal, because any related costs have already been built in the technical specifications previously determined and shared broadly in conformance with the CAT NMS Plan, as amended. In addition, FINRA and all national securities exchanges are proposing this amendment to their Compliance Rules. Therefore, this is not a competitive rule filing and does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

FINRA has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10] 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 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has asked the Commission to waive the 30-day operative delay so that the proposal may become operative by July 31, 2020. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it implements an amendment to the CAT NMS Plan approved by the Commission.[15] Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative as of July 31, 2020.[16]

At any time within 60 days of the filing of this 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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number *SR–FINRA–2020–023 on the subject line.*

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2020–023. 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 FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2020–023, and should be submitted on or before August 27, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–17134 Filed 8–5–20; 8:45 am]

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[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires FINRA to give the Commission written notice of FINRA's 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. FINRA has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See* Securities Exchange Act Release No. 89397 (July 24, 2020) (**Federal Register** publication pending).

[16] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89436; File No. SR–ICC–2020–008]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC Exercise Procedures and ICC Clearing Rules

July 31, 2020.

I. Introduction

On June 3, 2020, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to formalize and adopt the ICC Exercise Procedures (the ''Procedures'') and a related update to the ICC Clearing Rules (the ''Rules'') to accompany the clearing of options on index credit default swaps (''Index Swaptions'').[3] The proposed rule change was published for comment in the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms used but not defined herein have the meanings specified in the Procedures or the Rules, as applicable.

Federal Register on June 22, 2020.[4] The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

The proposed rule change would formalize and adopt the Procedures and make a related amendment to the Rules in connection with ICC's proposed clearing of Index Swaptions. ICC has previously filed with the Commission changes to certain other policies and procedures related to the clearing of Index Swaptions on June 28, 2019[5] and January 14, 2020.[6] As described in those filings, pursuant to an Index Swaption, one party (the ''Swaption Buyer'') has the right (but not the obligation) to cause the other party (the ''Swaption Seller'') to enter into an index credit default swap transaction at a pre-determined strike price on a specified expiration date on specified terms. As also described in those filings, ICC intends to adopt certain related policies and procedures in preparation for the launch of clearing of Index Swaptions, including those set out in this proposed rule change, and would not commence clearing of Index Swaptions until all such policies and procedures have been approved by the Commission or otherwise become effective. As such, ICC filed the proposed rule change to formalize the Procedures and make the related change to the Rules effective as part of ICC's larger effort to adopt the necessary policies and procedures to the eventual launch of the clearing of Index Swaptions.[7]

A. The Procedures

The Procedures would supplement the provisions of Subchapter 26R of the Rules[8] with respect to Index Swaptions and provide further detail as to (i) which Swaption Buyers may exercise; (ii) how an Index Swaption is exercised, including detail as to the amount being exercised, circumstances in which an exercise is valid and irrevocable or invalid and rejected, and limitations ICC may impose upon exercise; (iii) how ICC would assign exercised positions to Swaptions Sellers; and (iv) what steps ICC would take in response to systems failures that inhibit ICC from accepting exercises and communications failures that inhibit a Swaption Buyer from exercising an Index Swaption.

i. Who May Exercise

First, the Procedures would specify who is authorized to exercise an Index Swaption. Under the Procedures, a Swaption Buyer that is a Clearing Participant owning an Index Swaption in its house account would be permitted to exercise that Index Swaption, and a Swaption Buyer that is a non-participant client of a Clearing Participant owning an Index Swaption carried in the Clearing Participant's Client Origin Account (*i.e.,* the Clearing Participant's client account) would be able to exercise that Index Swaption (each an ''Exercising Party''). The Procedures would not permit a Clearing Participant to exercise on behalf of a non-participant client. Rather, the Procedures would permit only a non-participant client to exercise its Index Swaption. However, in the event of a default or termination event with respect to a non-participant for which it carries an Index Swaption, the Procedures would permit a Clearing Participant to (i) exercise such Index Swaption on behalf of the non-participant party for the purpose of liquidating or closing out such position, or (ii) convert such Index Swaption into a position in the Clearing Participant's house account, which is consistent with existing ICC Rule 304. Finally, the Procedures would require a Clearing Participant to obtain the agreement of each non-participant party for which it carries an open position in Index Swaptions to the provisions of the Rules and the Procedures applicable to Index Swaptions.

ii. How to Exercise

Next, the Procedures would specify the process for exercising an Index Swaption. To exercise an Index Swaption, the Exercising Party would deliver an exercise notice to ICC using an electronic system known as the Exercise System during the Exercise Period that specifies the notional amount being exercised (the ''Exercised Notional Amount''). Under the Procedures, the Exercise Period would be the time period during which an Exercising Party may deliver an exercise notice to ICC, *i.e.,* 9:00 a.m. to 11:00 a.m. New York time for an Index Swaption referencing a CDX.NA index, and 9:00 a.m. to 4:00 p.m. London time for an Index Swaption referencing an iTraxx Europe index.

With respect to the amount that an Exercising Party may exercise, the Procedures would provide that an open position may be exercised in whole or part. The Procedures would provide that ICC may elect to require a partial exercise be in a specified notional amount, which is designated as the Exercise Block. If ICC requires a specific notional amount as the Exercise Block, an Exercising Party must make any partial exercise in that notional amount, or in an integer multiple thereof. If ICC does not require any specific notional amount as the Exercise Block, the Exercise Block would be 0.01 in the currency of denomination. If an Exercising Party submits an exercise notice with an Exercised Notional Amount less than the notional amount of the Index Swaption, the Procedures would permit the Exercising Party to submit during the Exercise Period a subsequent exercise notice increasing the Exercised Notional Amount, but the Procedures would not permit an Exercising Party to reduce the Exercised Notional Amount of an exercise notice.

The Procedures also would specify the circumstances in which an exercise notice would be treated as irrevocable. Once an exercise notice is submitted to ICC during the Exercise Period, it would be irrevocable and binding on the Exercising Party. ICC will then consider whether to validate the Exercise Notice, as discussed further below, and if it is validated, it would then be accepted by ICC and become binding on ICC and the Exercising Party (and, in the case of a non-participant, its Clearing Participant). The Procedures would also allow ICC to establish a pre-exercise notification period during which an Exercising Party may submit, modify, or withdraw a preliminary exercise notice. If an Exercising Party submitted a preliminary exercise notice but does not

[4] Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Relating to the ICC Exercise Procedures and ICC Clearing Rules, Exchange Act Release No. 89072 (June 16, 2020); 85 FR 37483 (June 22, 2020) (SR–ICC–2020–008) (''Notice'').

[5] Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Partial Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Partial Amendment No. 1, Relating to the ICC Rules, ICC End-of-Day Price Discovery Policies and Procedures, and ICC Risk Management Framework, Exchange Act Release No. 87297 (Oct. 15, 2019); 84 FR 56270 (Oct. 21, 2019) (SR–ICC–2019–007) (''2019 Swaption Rule Amendments'').

[6] Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC Risk Management Model Description, ICC Stress Testing Framework, ICC Liquidity Risk Management Framework, ICC Back-Testing Framework, and ICC Risk Parameter Setting and Review Policy, Exchange Act Release No. 89142 (June 24, 2020); 85 FR 39226 (June 30, 2020) (SR–ICC–2020–002).

[7] Notice, 85 FR at 37483.

[8] ICC adopted Subchapter 26R of the Rules in a prior rule filing related to the clearing of Index Swaptions. *See* 2019 Swaption Rule Amendments, 84 FR at 56270.

submit another exercise notice or withdraw the preliminary exercise notice, then the Procedures would treat the Exercising Party as having submitted an exercise notice with the Exercised Notional Amount specified under such preliminary notice.

If ICC rejects an exercise notice as not valid, it would inform the submitting party, who may resubmit a corrected exercise notice within the Exercise Period. Under the Procedures, ICC would deem a Swaption Exercise Notice invalid if it has (i) an Exercised Notional Amount of less than zero, (ii) an Exercised Notional Amount greater than the notional amount of the Index Swaption, or (iii) an Exercised Notional Amount less than the notional amount of the Index Swaption and not an integer multiple of the Exercise Block.

The Procedures would further provide that ICC may impose limitations on the speed, frequency, and notional amounts in which an Index Option may be exercised at certain times during the Exercise Period. Any attempted exercise in violation of these limitations would be rejected. The Procedures would also state that ICC would not be responsible for any failure or inability of a participant or non-participant party to exercise any Index Swaption, instead providing that each Exercising Party would be responsible for monitoring submission requirements, exercise limitations, and pertinent deadlines.

iii. Assignment of Exercised Positions

The Procedures also would explain how ICC would assign exercised positions of Index Swaptions. First, the Procedures would set forth ICC's process of netting all open positions in an expiring Index Swaption on the business day prior to the expiration date of an Index Swaption. Additionally, the Procedures would allow, but not obligate, ICC to estimate and provide the notional amount that it would assign to each open position in an Index Swaption of a Swaption Seller during the Exercise Period. These estimates would be purely for informational purposes and would not be binding on ICC.

At the conclusion of the Exercise Period, ICC would determine the final assignments to open positions in Index Swaptions of Swaption Sellers and notify participants accordingly. The Procedures would specify that ICC would make assignments across all open positions of participants that are Swaption Sellers in the relevant Index Swaptions. ICC would make final assignments proportionally based on the notional amount of each open position of a Swaption Seller, relative to the total notional amount of all open positions of Swaption Sellers in a particular Index Swaption. Once issued, the final assignments would constitute ICC's exercise as Swaption Buyer of the Index Swaption held by a Swaption Seller, and ICC would not be required to provide any further notice of such exercise.

iv. System and Communications Failures

The Procedures also would describe in detail what steps ICC would take in the event of technical issues disrupting the clearing of Index Swaptions and the processing of exercise notices. The Procedures would first define an Exercise System Failure as any failure of the Exercise System to be fully operational during the 45-minute period prior to the end of the Exercise Period or any other circumstance in which ICC determines that it is unable to process Swaption Exercise Notices in a timely manner. In case of an Exercise System Failure, the Procedures would require that ICC give notice and, at ICC's election: (i) Cancel and reschedule the Exercise Period, (ii) determine that automatic exercise will apply, and/or (iii) take such other action as ICC determines appropriate to permit Exercising Parties to submit exercise notices and to permit ICC to assign such notices. The Procedures would further specify that if automatic exercise applies under the system failure provisions, ICC would automatically exercise any open positions determined by ICC to be in the money.[9]

Similarly, the Procedures would specify the steps ICC would take in response to an Exercising Party's inability to submit notices to the Exercise System. Where an Exercising Party is affected by a significant communications or technological failure resulting in it being impossible or impracticable for the Exercising Party to deliver all, or substantially all, of its exercise notices electronically through the Exercise System (a ''Party Communication Failure''), and there is no Exercise System Failure, the Procedures would require that ICC take one of two steps. ICC could either (i) follow the normal process outlined in the Procedures for accepting exercise notices and assigning exercise notices to open positons described above notwithstanding such Party Communication Failure or (ii) take actions that it deems appropriate to allow the Exercising Party to effectively submit exercise notices and to allow ICC to assign such exercise notices to other participants.

B. Rule Amendments

Finally, ICC also proposes to amend ICC Rule 304 related to offsets to incorporate a reference to the Procedures. Rule 304 describes ICC's ability to net a Clearing Participant's trades that constitute opposite positions in a single Contract that are identical in all material respects. The proposed rule change would not change the substance of Rule 304, but it would amend Rule 304(a) to clarify that netting of applicable offsetting positions in Index Swaptions would be subject to any provisions in the Procedures.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[10] For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[11] and Rules 17Ad–22(e)(1) and 17Ad–22(e)(17)(i) and (ii).[12]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICC be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible.[13]

The Commission believes that the Procedures generally should facilitate the exercise of Index Swaptions and, therefore, the clearance and settlement of index credit swaps that would result from such exercise by enabling an electronic notice system for exercising Index Swaptions. In particular, specifying exactly who may submit exercise notices for Swaptions and requiring a Clearing Participant to obtain the agreement of each customer

[9] The Procedures would explain that ICC would determine whether an open position is in the money based on the average of the end-of-day price of the underlying CDS Contract on the preceding Business Day and the end-of-day price of the underlying CDS Contract on the Expiration Date.

[10] 15 U.S.C. 78s(b)(2)(C).

[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] 17 CFR 240.17Ad–22(e)(1), (e)(17)(i) and (ii).

[13] 15 U.S.C. 78q–1(b)(3)(F).

for which it carries an Index Swaption to the Rules and the Procedures, as discussed in Part II.A.i above, should establish clear standards for determining which Swaption Buyers may exercise Index Swaptions, thereby helping to reduce any possible confusion in the exercise process. Similarly, providing a process for how an Index Swaption is exercised, as discussed in Part II.A.ii above, including preliminary exercise notices, partial exercises, and specifying when an exercise is valid and binding, should establish a clear and reliable process for exercising Index Swaptions and for determining the validity and finality of an exercise.

Moreover, identifying how ICC would assign exercised positions to Swaption Sellers, as discussed in Part II.A.iii above, including providing a formal and clear method for determining the final assignment of open positions to Swaption Sellers and requiring that ICC determine all final assignments of open positions in the accounts of Swaption Sellers proportionally, should provide a transparent and predictable process for assignment thereby allowing Swaption Buyers and Swaption Sellers to anticipate and prepare for assignments. Finally, explaining the steps that ICC would take in the event of an Exercise System Failure and Party Communication Failure, as discussed in Part II.A.iv above, should provide a backup process that would allow ICC and Clearing Participants to continue exercising Index Swaptions in case of such failures, thereby further increasing the adaptability and reliability of the exercise process.

Thus, the Commission believes that these aspects of the proposed rule change, by establishing a clear, transparent, predictable, and reliable process for exercising Index Swaptions through the Procedures, should facilitate the exercise of Index Swaptions and, in turn, the clearance and settlement of index credit default swaps that would result from such exercise.

For similar reasons, the Commission believes that amending Rule 304 related to offsets to incorporate a reference to the Procedures, as discussed in Part II.B above, should reduce any possible confusion in applying Rule 304 to Index Swaptions by clarifying that netting of applicable offsetting positions in Index Swaptions would be subject to any provisions in the Procedures, thereby further facilitating the exercise of Index Swaptions and, therefore, the clearance and settlement of index credit default swaps.

Finally, the Commission believes that the Procedures should also assure the safeguarding of securities and funds in ICC's custody or control or for which it is responsible. Specifically, the Commission believes that identifying certain exercise notices as invalid that have obvious errors (*e.g.,* an Exercise Notional Amount of less than zero), as described in Part II.A.ii above, should help to protect Exercising Parties from losses resulting from erroneous exercise notices. Similarly, cancelling and rescheduling the Exercise Period or automatically assigning Open Positions that are in the money during an Exercise System Failure should help to protect the positions of Exercising Parties that are in the money and allow those Exercising Parties to benefit from such positions. By allowing Exercising Parties to avoid losses and to benefit from in the money positions in the event of an Exercise System Failure, the Commission believes the Procedures should help safeguard Index Swaptions cleared and exercised at ICC and, therefore, should assure the safeguarding of securities or funds in ICC's custody or control or for which it is responsible.

Therefore, the Commission finds that the proposed rule change should promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds in ICC's custody and control or for which it is responsible, consistent with the Section 17A(b)(3)(F) of the Act.[14]

B. Consistency With Rule 17Ad–22(e)(1)

Rule 17Ad–22(e)(1) requires that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.[15] As discussed above, the Commission believes that the Procedures should provide clear guidance for ICC's clearance of Index Swaption by ensuring the accuracy of the exercise process, harmonizing the Procedures with existing ICC rules, and creating clear and transparent rules for determining legal liability. Similarly, in determining certain exercise notices to be invalid that have obvious errors, as described above, the Commission believes the Procedures should provide for a clear basis for the rejection of exercise notices. Additionally, in adding a reference to the Procedures to Rule 304, the Commission believes the proposed rule change should help to ensure that ICC's Rules and the Procedures are consistent with each other and should help to foreclose any opportunity for conflicting interpretations. Finally, the Commission believes the Procedures should clarify potential legal liability by specifying that ICC would not be responsible for any failure of a party to exercise a Swaption and that Exercising Parties would be responsible for tracking deadlines and ensuring that they comply with all requirements in the submission of exercise notices.

For these reasons, the Commission finds that the proposed rule change is consistent with Rule 17Ad–22(e)(1).[16]

C. Consistency With Rules 17Ad–22(e)(17)(i) and (ii)

Rules 17Ad–22(e)(17)(i) and (ii) require that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to manage its operational risks by (i) identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls, and (ii) ensuring that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity.[17] The Commission believes that by identifying certain exercise notices as invalid that have obvious errors, as described above, the Procedures should provide appropriate controls to mitigate the operational risk associated with erroneous exercise notices. Similarly, the Commission believes that by identifying the actions that ICC would take during an Exercise System Failure or Party Communication Failure, such as instituting automatic assignments and allowing ICC to permit an Exercising Party to submit exercise notices during a Party Communication Failure, the proposed rule change should allow the exercise and assignment of Index Swaptions to continue even during such failures, and thereby should help to ensure that the Exercise System has a high degree of resiliency and operational reliability.

For these reasons, the Commission finds that the proposed rule change is consistent with Rule 17Ad–22(e)(17)(i) and (ii).[18]

D. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the

[14] 15 U.S.C. 78q–1(b)(3)(F).

[15] 17 CFR 240.17Ad–22(e)(1)

[16] 17 CFR 240.17Ad–22(e)(1).

[17] 15 U.S.C. 17Ad–22(e)(17)(i) and (ii).

[18] 15 U.S.C. 17Ad–22(e)(17)(i) and (ii).

requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act [19] and Rules 17Ad–22(e)(1) and 17Ad–22(e)(17)(i) and (ii).[20]

It is therefore ordered pursuant to Section 19(b)(2) of the Act [21] that the proposed rule change (SR–ICC–2020–008) be, and hereby is, approved.[22]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–17129 Filed 8–5–20; 8:45 am]

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[19] 15 U.S.C. 78q–1(b)(3)(F).

[20] 17 CFR 240.17Ad–22(e)(1), (e)(17)(i) and (ii).

[21] 15 U.S.C. 78s(b)(2).

[22] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89447; File No. SR–MEMX–2020–02]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Rule 4.5 Regarding the National Market System Plan Governing the Consolidated Audit Trail

July 31, 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 31, 2020, MEMX LLC (''MEMX'' 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 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 is filing with the Commission a proposed rule change to amend Rule 4.5, a part of the Exchange's compliance rule (''Compliance Rule'') regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'') [3] to be consistent with an amendment to the CAT NMS Plan recently approved by the Commission. The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend Rule 4.5, a part of the Compliance Rule regarding the CAT NMS Plan, to be consistent with an amendment to the CAT NMS Plan recently approved by the Commission.[4] The Commission approved an amendment to the CAT NMS Plan to amend the requirements for Firm Designated IDs in four ways: (1) To prohibit the use of account numbers as Firm Designated IDs for trading accounts that are not proprietary accounts; (2) to require that the Firm Designated ID for a trading account be persistent over time for each Industry Member so that a single account may be tracked across time within a single Industry Member; (3) to permit the use of relationship identifiers as Firm Designated IDs in certain circumstances; and (4) to permit the use of entity identifiers as Firm Designated IDs in certain circumstances (the ''FDID Amendment''). As a result, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 4.5 to reflect the changes to the CAT NMS Plan regarding the requirements for Firm Designated IDs.

Rule 4.5(r) defines the term ''Firm Designated ID'' to mean ''a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date.''

(1) Prohibit Use of Account Numbers

The Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 4.5(r) to provide that Industry Members may not use account numbers as the Firm Designated ID for trading accounts that are not proprietary accounts. Specifically, the Exchange proposes to add the following to the definition of a Firm Designated ID: ''provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account.''

(2) Persistent Firm Designated ID

The Exchange also proposes to amend the definition of ''Firm Designated ID'' in Rule 4.5(r) to require a Firm Designated ID assigned by an Industry Member to a trading account to be persistent over time, not for each business day.[5] To effect this change, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 4.5(r) to add ''and persistent'' after ''unique'' and delete ''for each business date'' so that the definition of ''Firm Designated ID'' would read, in relevant part, as follows:

> a unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository . . . where each such identifier is unique among all identifiers from any given Industry Member.

(3) Relationship Identifiers

The FDID Amendment also permits an Industry Member to provide a relationship identifier as the Firm Designated ID, rather than an identifier that represents a trading account, in certain scenarios in which an Industry Member does not have an account number available to its order handling and/or execution system at the time of order receipt (*e.g.,* certain institutional accounts, managed accounts, accounts for individuals). In such scenarios, the trading account structure may not be

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

[4] Securities Exchange Act Release No. 89397 (July 24, 2020) (**Federal Register** pending).

[5] If an Industry Member assigns a new account number or entity identifier to a client or customer due to a merger, acquisition or some other corporate action, then the Industry Member should create a new Firm Designated ID to identify the new account identifier/relationship identifier/entity identifier in use at the Industry Member for the entity. In addition, if a previously assigned Firm Designated ID is no longer in use by an Industry Member (*e.g.,* if the trading account associated with the Firm Designated ID has been closed), then an Industry Member may reuse the Firm Designated ID for another trading account. The Plan Processor will maintain a history of the use of each Firm Designated ID, including, for example, the effective dates of the Firm Designated ID with respect to each associated trading account.

available when a new order is first received from a client and, instead, only an identifier representing the client's trading relationship is available. In these limited instances, the Industry Member may provide an identifier used by the Industry Member to represent the client's trading relationship with the Industry Member instead of an account number.

When a trading relationship is established at a broker-dealer for clients, the broker-dealer typically creates a parent account, under which additional subaccounts are created. However, in some cases, the broker-dealer establishes the parent relationship for a client using a relationship identifier as opposed to an actual parent account. The relationship identifier could be any of a variety of identifiers, such as a short name for a relevant individual or institution. This relationship identifier is established prior to any trading for the client. If a relationship identifier has been established rather than a parent account, and an order is placed on behalf of the client, any executed trades will be kept in a firm account (*e.g.,* a facilitation or average price account) until they are allocated to the proper subaccount(s), *i.e.,* the accounts associated with the parent relationship identifier connecting them to the client.

Relationship identifiers are used in circumstances in which the account structure is not available to the trading system at the time of order placement. The clients have established accounts prior to the trade that satisfy relevant regulatory obligations for opening accounts, such as Know Your Customer and other customer obligations. However, the order receipt workflows operate using relationship identifiers, not accounts.

For Firm Designated ID purposes, as with an identifier for a trading account, the relationship identifier must be persistent over time. The relationship identifier also must be unique among all identifiers from any given Industry Member. With these requirements, a single relationship could be tracked across time within a single Industry Member using the Firm Designated ID. In addition, the relationship identifier must be masked as the relationship identifier could be a name or otherwise provide an indication as to the identity of the relationship. The masking requirement would avoid potentially revealing the identity of the relationship.

An example of the use of a relationship identifier as a Firm Designated ID would be as follows: Suppose that Big Fund Manager is known in Industry Member A's systems as ''BFM1.'' When an order is placed by Big Fund Manager, the order is tagged to BFM1. Industry Member A could use a masked version of BFM1 in place of the Firm Designated ID representing a trading account when reporting a new order from Big Fund Manager instead of the account numbers to which executed shares/contracts will be allocated at a later time via a booking or other system. Similarly, another example of the use of a relationship identifier as a Firm Designated ID would involve an individual in place of the Big Fund Manager in the above example.

In accordance with the FDID Amendment, the Exchange proposes to amend the definition of a ''Firm Designated ID'' in Rule 4.5(r) to permit Industry Members to provide a relationship identifier as the Firm Designated ID as described above. Specifically, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 4.5(r) to state that a Firm Designated ID means, in relevant part, ''a unique and persistent relationship identifier when an Industry Member does not have an account number available to its order handling and/or execution system at the time of order receipt, provided, however, such identifier must be masked.''

(4) Entity Identifiers

The FDID Amendment also permits Industry Members to provide an entity identifier, rather than an identifier that represents a trading account, when an employee of the Industry Member is exercising discretion over multiple client accounts and creates an aggregated order for which a trading account number of the Industry Member is not available at the time of order origination. An entity identifier is an identifier of the Industry Member that represents the firm discretionary relationship with the client rather than a firm trading account.

The scenarios in which a firm uses an entity identifier are comparable to when a firm uses a relationship identifier (as described above) except the entity identifier represents the Industry Member rather than a client. As with relationship identifiers, entity identifiers are used in circumstances in which the account structure is not available to the trading system at the time of order placement. In this workflow, the Industry Member's order handling and/execution system does not have an account number at the time of order origination. The relevant clients that will receive an allocation of the execution have established accounts prior to the trade that satisfy relevant regulatory obligations for opening accounts, such as Know Your Customer and other customer obligations. However, the order origination workflows operate using entity identifiers, not accounts.

For Firm Designated ID purposes, as with the identifier for a trading account or a relationship, the entity identifier must be persistent over time. The entity identifier also must be unique among all identifiers from any given Industry Member. Each Industry Member must make its own risk determination as to whether it believes it is necessary to mask the entity identifier when using an entity identifier to report the Firm Designated ID to CAT.

An example of the use of an entity identifier as a Firm Designated ID would be when Industry Member 1 has an employee that is a registered representative that has discretion over several client accounts held at Industry Member 1. The registered representative places an order that he will later allocate to individual client accounts. At the time the order is placed, the trading system only knows it involves a representative of Industry Member 1 and it does not have a specific trading account that could be used for Firm Designated ID reporting. Therefore, Industry Member 1 could report IM1, its entity identifier, as the FDID with the new order.

In accordance with the FDID Amendment, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 4.5(r) to permit the use of an entity identifier as a Firm Designated ID as described above. Specifically, the Exchange proposes to amend the definition of a ''Firm Designated ID'' in Rule 4.5(r) to state that a Firm Designated ID means, in relevant part, ''a unique and persistent entity identifier when an employee of an Industry Member is exercising discretion over multiple client accounts and creates an aggregated order for which a trading account number of the Industry Member is not available at the time of order origination.''

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[6] which require, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 6(b)(8) of the Act[7], which

[6] 15 U.S.C. 78f(b)(6).

[7] 15 U.S.C. 78f(b)(8)

requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

The Exchange believes that this proposal is consistent with the Act because it is consistent with, and implements, a recent amendment to the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.''[8] To the extent that this proposal implements the Plan, and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule changes are consistent with a recent amendment to the CAT NMS Plan, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the FDID Amendment will apply equally to all Industry Members that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing this amendment to their Compliance Rules. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] 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 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] 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 become operative by July 31, 2020. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it implements an amendment to the CAT NMS Plan approved by the Commission.[15] Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative as of July 31, 2020.[16]

At any time within 60 days of the filing of this 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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MEMX–2020–02 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–MEMX–2020–02. 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–MEMX–2020–02, and should be submitted on or before August 27, 2020.

[8] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See* Securities Exchange Act Release No. 89397 (July 24, 2020) (**Federal Register** publication pending).

[16] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–17136 Filed 8–5–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89440; File No. SR–LTSE–2020–12]

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Compliance Rule Regarding the CAT NMS Plan

July 31, 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 30, 2020, Long-Term Stock Exchange, Inc. (''LTSE'' 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

LTSE proposes a rule change to amend the Rule 11.600 Series, the Exchange's compliance rule (''Compliance Rule'') regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'')[3] to be consistent with an amendment to the CAT NMS Plan recently approved by the Commission.

The text of the proposed rule change is available at the Exchange's website at *https://longtermstockexchange.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the Rule 11.600 Series, the Compliance Rule regarding the CAT NMS Plan, to be consistent with an amendment to the CAT NMS Plan recently approved by the Commission.[4] The Commission approved an amendment to the CAT NMS Plan to amend the requirements for Firm Designated IDs in four ways: (1) To prohibit the use of account numbers as Firm Designated IDs for trading accounts that are not proprietary accounts; (2) to require that the Firm Designated ID for a trading account be persistent over time for each Industry Member so that a single account may be tracked across time within a single Industry Member; (3) to permit the use of relationship identifiers as Firm Designated IDs in certain circumstances; and (4) to permit the use of entity identifiers as Firm Designated IDs in certain circumstances (the ''FDID Amendment''). As a result, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 11.610 to reflect the changes to the CAT NMS Plan regarding the requirements for Firm Designated IDs.

Rule 11.610(r) defines the term ''Firm Designated ID'' to mean ''a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date.''

(1) Prohibit Use of Account Numbers

The Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 11.610(r) to provide that Industry Members may not use account numbers as the Firm Designated ID for trading accounts that are not proprietary accounts. Specifically, the Exchange proposes to add the following to the definition of a Firm Designated ID: ''provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account.''

(2) Persistent Firm Designated ID

The Exchange also proposes to amend the definition of ''Firm Designated ID'' in Rule 11.610(r) to require a Firm Designated ID assigned by an Industry Member to a trading account to be persistent over time, not for each business day.[5] To effect this change, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 11.610(r) to add ''and persistent'' after ''unique'' and delete ''for each business date'' so that the definition of ''Firm Designated ID'' would read, in relevant part, as follows:

> a unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository . . . where each such identifier is unique among all identifiers from any given Industry Member.

(3) Relationship Identifiers

The FDID Amendment also permits an Industry Member to provide a relationship identifier as the Firm Designated ID, rather than an identifier that represents a trading account, in certain scenarios in which an Industry Member does not have an account number available to its order handling and/or execution system at the time of order receipt (*e.g.,* certain institutional accounts, managed accounts, accounts for individuals). In such scenarios, the trading account structure may not be available when a new order is first received from a client and, instead, only an identifier representing the client's trading relationship is available. In these limited instances, the Industry Member may provide an identifier used

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

[4] Securities Exchange Act Release No. 89397 (July 24, 2020) (**Federal Register** pending).

[5] If an Industry Member assigns a new account number or entity identifier to a client or customer due to a merger, acquisition or some other corporate action, then the Industry Member should create a new Firm Designated ID to identify the new account identifier/relationship identifier/entity identifier in use at the Industry Member for the entity. In addition, if a previously assigned Firm Designated ID is no longer in use by an Industry Member (*e.g.,* if the trading account associated with the Firm Designated ID has been closed), then an Industry Member may reuse the Firm Designated ID for another trading account. The Plan Processor will maintain a history of the use of each Firm Designated ID, including, for example, the effective dates of the Firm Designated ID with respect to each associated trading account.

by the Industry Member to represent the client's trading relationship with the Industry Member instead of an account number.

When a trading relationship is established at a broker-dealer for clients, the broker-dealer typically creates a parent account, under which additional subaccounts are created. However, in some cases, the broker-dealer establishes the parent relationship for a client using a relationship identifier as opposed to an actual parent account. The relationship identifier could be any of a variety of identifiers, such as a short name for a relevant individual or institution. This relationship identifier is established prior to any trading for the client. If a relationship identifier has been established rather than a parent account, and an order is placed on behalf of the client, any executed trades will be kept in a firm account (*e.g.,* a facilitation or average price account) until they are allocated to the proper subaccount(s), *i.e.,* the accounts associated with the parent relationship identifier connecting them to the client.

Relationship identifiers are used in circumstances in which the account structure is not available to the trading system at the time of order placement. The clients have established accounts prior to the trade that satisfy relevant regulatory obligations for opening accounts, such as Know Your Customer and other customer obligations. However, the order receipt workflows operate using relationship identifiers, not accounts.

For Firm Designated ID purposes, as with an identifier for a trading account, the relationship identifier must be persistent over time. The relationship identifier also must be unique among all identifiers from any given Industry Member. With these requirements, a single relationship could be tracked across time within a single Industry Member using the Firm Designated ID. In addition, the relationship identifier must be masked as the relationship identifier could be a name or otherwise provide an indication as to the identity of the relationship. The masking requirement would avoid potentially revealing the identity of the relationship.

An example of the use of a relationship identifier as a Firm Designated ID would be as follows: Suppose that Big Fund Manager is known in Industry Member A's systems as ''BFM1.'' When an order is placed by Big Fund Manager, the order is tagged to BFM1. Industry Member A could use a masked version of BFM1 in place of the Firm Designated ID representing a trading account when reporting a new order from Big Fund Manager instead of the account numbers to which executed shares/contracts will be allocated at a later time via a booking or other system. Similarly, another example of the use of a relationship identifier as a Firm Designated ID would involve an individual in place of the Big Fund Manager in the above example.

In accordance with the FDID Amendment, the Exchange proposes to amend the definition of a ''Firm Designated ID'' in Rule 11.610(r) to permit Industry Members to provide a relationship identifier as the Firm Designated ID as described above. Specifically, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 11.610(r) to state that a Firm Designated ID means, in relevant part, ''a unique and persistent relationship identifier when an Industry Member does not have an account number available to its order handling and/or execution system at the time of order receipt, provided, however, such identifier must be masked.''

(4) Entity Identifiers

The FDID Amendment also permits Industry Members to provide an entity identifier, rather than an identifier that represents a trading account, when an employee of the Industry Member is exercising discretion over multiple client accounts and creates an aggregated order for which a trading account number of the Industry Member is not available at the time of order origination. An entity identifier is an identifier of the Industry Member that represents the firm discretionary relationship with the client rather than a firm trading account.

The scenarios in which a firm uses an entity identifier are comparable to when a firm uses a relationship identifier (as described above) except the entity identifier represents the Industry Member rather than a client. As with relationship identifiers, entity identifiers are used in circumstances in which the account structure is not available to the trading system at the time of order placement. In this workflow, the Industry Member's order handling and/execution system does not have an account number at the time of order origination. The relevant clients that will receive an allocation of the execution have established accounts prior to the trade that satisfy relevant regulatory obligations for opening accounts, such as Know Your Customer and other customer obligations. However, the order origination workflows operate using entity identifiers, not accounts.

For Firm Designated ID purposes, as with the identifier for a trading account or a relationship, the entity identifier must be persistent over time. The entity identifier also must be unique among all identifiers from any given Industry Member. Each Industry Member must make its own risk determination as to whether it believes it is necessary to mask the entity identifier when using an entity identifier to report the Firm Designated ID to CAT.

An example of the use of an entity identifier as a Firm Designated ID would be when Industry Member 1 has an employee that is a registered representative that has discretion over several client accounts held at Industry Member 1. The registered representative places an order that he will later allocate to individual client accounts. At the time the order is placed, the trading system only knows it involves a representative of Industry Member 1 and it does not have a specific trading account that could be used for Firm Designated ID reporting. Therefore, Industry Member 1 could report IM1, its entity identifier, as the FDID with the new order.

In accordance with the FDID Amendment, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 11.610(r) to permit the use of an entity identifier as a Firm Designated ID as described above. Specifically, the Exchange proposes to amend the definition of a ''Firm Designated ID'' in Rule 11.610(r) to state that a Firm Designated ID means, in relevant part, ''a unique and persistent entity identifier when an employee of an Industry Member is exercising discretion over multiple client accounts and creates an aggregated order for which a trading account number of the Industry Member is not available at the time of order origination.''

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

the public interest, and Section 6(b)(8) of the Act,[8] which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

The Exchange believes that this proposal is consistent with the Act because it is consistent with, and implements, a recent amendment to the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [9] To the extent that this proposal implements the Plan, and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule changes are consistent with a recent amendment to the CAT NMS Plan, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the FDID Amendment will apply equally to all Industry Members that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing this amendment to their Compliance Rules. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[8] 15 U.S.C. 78f(b)(8).

[9] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

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 [10] and Rule 19b–4(f)(6) thereunder.[11] 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 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6)(iii) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[15] 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 become operative by July 31, 2020. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it implements an amendment to the CAT NMS Plan approved by the Commission.[16] Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative as of July 31, 2020.[17]

At any time within 60 days of the filing of this 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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] *See* Securities Exchange Act Release No. 89397 (July 24, 2020) (**Federal Register** publication pending).

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–LTSE–2020–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–LTSE–2020–12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–LTSE–2020–12, and should

be submitted on or before August 27, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–17133 Filed 8–5–20; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2019–0054]

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 the Treasury—Internal Revenue Services (IRS). This computer matching agreement sets forth the terms, conditions, and safeguards under which IRS will disclose to SSA certain return information for the purpose of establishing the correct amount of Medicare Part B premium subsidy adjustments and Medicare Part D premium increases.

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 October 1, 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, Direcctor, 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:

Authority: Sections 1839(i) and 1860D–13(a)(7) of the Social Security Act (Act). (42 U.S.C. 1395r(i) and 1395w–113(a)(7) (42 U.S.C. 1395r(i) and 1395w–113(a)(7)), as enacted by section 811 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA; Pub. L. 108–173) and section 3308 of the Affordable Care Act of 2010 (Pub. L. 111–148). one.

Matthew Ramsey,

Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

PARTICIPATING AGENCIES:

SSA and IRS.

AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM:

The legal authority for disclosure under this agreement is section 6103(1)(20) of the Internal Revenue Code (IRC section 6103(1)(20)) authorizes IRS to disclose specified return information to SSA with respect to taxpayers whose Part B and/or prescription drug coverage insurance premium(s) may (according to IRS records) be subject to premium subsidy adjustment pursuant to section 1839(i) or premium increase pursuant to section 1860D–13(a)(7) of the Act for the purpose of establishing the amount of any such adjustment or increase or for resolving taxpayer appeals with respect to such adjustment or increase. The return information IRS will disclose, as specified in Article V, subsection E, of the agreement, includes adjusted gross income and specified tax-exempt income, collectively referred to in the agreement as modified adjusted gross income (MAGI) (see Article III, subsection D). This return information will be used by officers, employees, and contractors of SSA to establish the appropriate amount of any such adjustment or increase; and to defend appeals with respect to such adjustment or increase.

Sections 1839(i) and 1860D–13(a)(7) of the Act (42 U.S.C. 1395r(i) and 1395w 113(a)(7)) require the Commissioner of SSA to determine the amount of a beneficiary's premium subsidy adjustment, or premium increase, if the MAGI is above the applicable threshold as established in section 1839(i) of the Act (42 U.S.C. 1395r(i)).

PURPOSE(S):

The purpose of this matching program is to set forth the terms, conditions, and safeguards under which IRS will disclose to us certain return information for the purpose of establishing the correct amount of Medicare Part B premium subsidy adjustments and Medicare Part D premium increases under sections 1839(i) and 1860D–13(a)(7) of the Act (42 U.S.C. 1395r(i) and 1395w–113(a)(7)), as enacted by section 811 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA; Pub. L. 108–173) and section 3308 of the Affordable Care Act of 2010 (Pub. L. 111–148).

CATEGORIES OF INDIVIDUALS:

The individuals whose information is involved in this matching program are beneficiaries who are enrolled in, or have become entitled to, Medicare Part B, Part D, or both. On a weekly basis, SSA will provide IRS with this information with respect to Medicare Part B and Part D beneficiaries who: (1) Are enrolled in Medicare under the rules in section 1837 of the Act (42 U.S.C. 1395p) and have not disenrolled from Medicare Part B; (2) have filed applications specifically for Medicare Part B; (3) have been determined to have retroactive Medicare Part B entitlement; or (4) have been provided to SSA as enrolled in Part D by the Centers for Medicare & Medicaid Services.

CATEGORIES OF RECORDS:

SSA will electronically transmit to IRS the (1) Social Security Number (SSN), (2) name, (3) premium year, and (4) income threshold for each enrollee for whom SSA requests MAGI data. If the enrollee has asked SSA to use a more recent tax year than the usual, SSA will also furnish IRS with an indicator and tax year. When there is a match of enrollee identifiers, and the MAGI data shows income above the applicable threshold established pursuant to section 1839(i) of the Act, IRS will disclose to SSA the enrollee's: (1) Adjusted gross income dollar amount, (2) tax-exempt income dollar amount, (3) tax year involved, and (4) filing status.

SYSTEM(S) OF RECORDS:

SSA will provide IRS with identifying information with respect to enrollees pursuant to the Master Beneficiary Record, 60–0090, last fully published at 71 **Federal Register** (FR) 1826 (January 11, 2006), amended at 72 FR 69723 (December 10, 2007), 78 FR 40542 (July 5, 2013), 83 FR 31250–31251 (July 3, 2018), and 83 FR 54969 (November 1, 2018). SSA will maintain the MAGI data provided by IRS pursuant to the Medicare Database File System 60–0321, last fully published at 71 FR 42159 (July 25, 2006) as amended at 72 FR 69723 (December 10, 2007) and 83 FR 54969 (November 1, 2018). IRS will

extract MAGI data from the Return Transaction File, which is part of the Customer Account Data Engine Individual Master File, Treasury/IRS 24.030, last fully published at 80 FR 54063 (September 8, 2015).

[FR Doc. 2020–17207 Filed 8–5–20; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 11169]

Bureau of Educational and Cultural Affairs Evaluation Division Monitoring Data for ECA (MODE) Framework Community of Practice Meeting Recording

ACTION: Notice of information.

SUMMARY: The Bureau of Educational and Cultural Affairs' (ECA) Evaluation Division invites current and potential award recipients to review the Community of Practice recording explaining ECA's new monitoring and evaluation (M&E) system, the MODE Framework. The webinar can be found here: *https://www.youtube.com/watch?v=1iX6sZK-oK0&feature=youtu.be.* All relevant MODE Framework information can be found online here: *https://eca.state.gov/impact/eca-evaluation-division/monitoring-data-eca-mode-framework.*

FOR FURTHER INFORMATION CONTACT: Questions and requests for additional information regarding the ECA's MODE Framework may be sent to Natalie Donahue, Chief of Evaluation, Bureau of Educational and Cultural Affairs at *ecaevaluation@state.gov* or 202–632–6193.

SUPPLEMENTARY INFORMATION: *Background:* The Evaluation Division began development of an enhanced performance monitoring system, the MODE Framework, to enable ECA leadership, program offices, and award recipients to better assess program performance and respond quickly to requests for information. The Evaluation Community of Practice is organized by the ECA Evaluation Division for ECA staff and current ECA award recipients who are interested in learning more about M&E. If you are a current award recipient and would like to join the Community of Practice, please email the ECA Evaluation Division (*ecaevaluation@state.gov*) to be added to the invitations.

Natalie R. Donahue,

Chief of Evaluation, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2020–16799 Filed 8–5–20; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment To Change the Land Use From Aeronautical to Non Aeronautical for 1.1 Acres of Airport Land at Norwood Memorial Airport, Norwood, MA

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

ACTION: Request for public comments.

SUMMARY: Notice is being given that the FAA is considering a request from the Town of Norwood, MA to change the land use from Aeronautical to Non Aeronautical for 1.1 acres of airport land. The land use change is for land that is no longer needed for aviation use as identified in the 2020 Airport Master Plan. The revenue generated by the lease of airport land will be placed into the airport's operation and maintenance fund.

DATES: Comments must be received on or before September 3, 2020.

ADDRESSES: You may send comments using any of the following methods:

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

Interested persons may inspect the request and supporting documents by contacting the FAA at the address listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mr. Jorge E. Panteli, Compliance and Land Use Specialist, Federal Aviation Administration New England Region Airports Division, 1200 District Avenue, Burlington, Massachusetts 01803. Telephone: 781–238–7618.

Issued in Burlington, Massachusetts, on August 3, 2020.

Julie Seltsam-Wilps,

Deputy Director, ANE–600.

[FR Doc. 2020–17199 Filed 8–5–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment Equal Land Swap of .64 Acres at Tweed-New Haven

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments.

SUMMARY: Notice is being given that the FAA is considering a request from the City of New Haven, CT to exchange a .64 acre parcel of land with an adjacent land owner of equal size and value. The exchange of land will provide the airport with the necessary land to build an extension of a parallel taxiway and vehicle service road that will serve the end of Runway 20.

DATES: Comments must be received on or before September 3, 2020.

ADDRESSES: You may send comments using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* and follow the instructions on providing comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W 12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Interested persons may inspect the request and supporting documents by contacting the FAA at the address listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mr. Jorge E. Panteli, Compliance and Land Use Specialist, Federal Aviation Administration New England Region Airports Division, 1200 District Avenue, Burlington, Massachusetts 01803. Telephone: 781–238–7618.

Issued in Burlington, Massachusetts on August 3, 2020.

Julie Seltsam-Wilps,

Deputy Director, ANE–600.

[FR Doc. 2020–17150 Filed 8–5–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treas.gov/ofac*).

Notice of OFAC Actions

On July 31, 2020, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals:

1. SUN, Jinlong (Chinese Simplified: 孙金龙), Xinjiang, China; DOB Jan 1962; nationality China; Gender Male (individual) [GLOMAG (Linked To: XINJIANG PRODUCTION AND CONSTRUCTION CORPS).

   Designated pursuant to section 1(a)(iii)(B) of Executive Order 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839, 3 CFR, 2017 Comp., p. 399, (E.O. 13818) for being owned or controlled by, or for having acted or purported to act for or on behalf of, directly or indirectly, XINJIANG PRODUCTION AND CONSTRUCTION CORPS, a person whose property and interests in property are blocked pursuant to E.O. 13818.

2. PENG, Jiarui (Chinese Simplified: 彭家瑞), Xinjiang, China; DOB Apr 1961; nationality China; Gender Male (individual) [GLOMAG] (Linked To: XINJIANG PRODUCTION AND CONSTRUCTION CORPS).

   Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or for having acted or purported to act for or on behalf of, directly or indirectly, XINJIANG PRODUCTION AND CONSTRUCTION CORPS, a person whose property and interests in property are blocked pursuant to E.O. 13818.

Entity:

1. XINJIANG PRODUCTION AND CONSTRUCTION CORPS (Chinese Simplified: 新疆生产建设兵团), Xinjiang, China [GLOMAG] (Linked To: CHEN, Quanguo).

   Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or for having acted or purported to act for or on behalf of, directly or indirectly, CHEN, Quanguo, a person whose property and interests in property are blocked pursuant to EO. 13818.

Dated: July 31, 2020.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2020–17112 Filed 8–5–20; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them. Additionally, OFAC is publishing the name of one or more persons that have been removed from the SDN List. Their property and interests in property are no longer blocked, and U.S. persons are no longer generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT:

OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treas.gov/ofac*).

Notice of OFAC Actions

On July 29, 2020, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individual

1. AL-QATTAN, Wassim Anwar (Arabic: القطان انـوار وســيم) (a.k.a. AL-KATAN, Wassim Anouar; a.k.a. AL-KATTAN, Waseem; a.k.a. AL-KATTAN, Wasseem; a.k.a. AL-QATAN, Waseem; a.k.a. QATTAN, Waseem; a.k.a. QATTAN, Wasim), Damascus, Syria; DOB 04 Mar 1976; nationality Syria; Gender Male (individual) [SYRIA] [SYRIA-CAESAR].

   Designated pursuant to section 1(b)(i) of Executive Order 13582 of August 17, 2011, "Blocking Property of the Government of Syria and Prohibiting Certain Transactions with Respect to Syria" (69 FR 26749) (3 CFR 264) (E.O. 13582), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582. Also designated pursuant to Section 7412(a)(2)(A)(i) of the Caesar Syria Civilian Protection Act of 2019 (the Caesar Act), Public Law 116-92, § 7401 *et seq.* (Dec. 20, 2019), for being a foreign person that knowingly provides significant financial, material, or technological support to, or knowingly engages in a significant transaction with the GOVERNMENT OF SYRIA (including any entity owned or controlled by the GOVERNMENT OF SYRIA) or a senior political figure of the GOVERNMENT OF SYRIA.

Entities

1. ADAM TRADING AND INVESTMENT LLC (Arabic: الاستثمار و التجـــارة ادم شــركة), Damascus, Syria; Organization Established Date 25 Feb 2018; Organization Type: Real estate activities on a fee or contract basis [SYRIA] [SYRIA-CAESAR] (Linked To: AL-QATTAN, Wassim Anwar).

   Designated pursuant to section 1(b)(i) of E.O. 13582, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582. Also designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, WASSIM ANWAR AL-QATTAN, a person whose property and interests in property are blocked pursuant to E.O. 13582. Additionally designated pursuant to Section 7412(a)(2)(A)(i) of the Caesar Act, for being a foreign person that knowingly provides significant financial, material, or technological support to, or knowingly engages in a significant transaction with the GOVERNMENT OF SYRIA (including any entity owned or controlled by the GOVERNMENT OF SYRIA) or a senior political figure of the GOVERNMENT OF SYRIA.

2. INTERSECTION LLC (Arabic: تقاطع نقطــة شــركة), Rural Damascus, Syria; Organization Established Date 11 Mar 2018; Organization Type: Construction of buildings [SYRIA] [SYRIA-CAESAR] (Linked To: AL-QATTAN, Wassim Anwar).

   Designated pursuant to section 1(b)(i) of E.O. 13582, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582. Also designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, WASSIM ANWAR AL-QATTAN, a person whose property and interests in property are blocked pursuant to E.O. 13582. Additionally designated pursuant to Section 7412(a)(2)(A)(i) of the Caesar Act, for being a foreign person that knowingly provides significant financial, material, or technological support to, or knowingly engages in a significant transaction

with the GOVERNMENT OF SYRIA (including any entity owned or controlled by the GOVERNMENT OF SYRIA) or a senior political figure of the GOVERNMENT OF SYRIA.

3. MURUJ CHAM INVESTMENT AND TOURISM GROUP (a.k.a. MUROOJ AL-CHAM INVESTMENT AND TOURISM COMPANY (Arabic: مروج الشام للاستثمار و السياحة شركة); a.k.a. MUROOJ AL-CHAM INVESTMENT AND TOURISM GROUP), 1149 Main Street, Al-Saboura, Damascus, Syria; Organization Established Date 23 Jun 2015; Organization Type: Real estate activities on a fee or contract basis; alt. Organization Type: Construction of buildings [SYRIA] [SYRIA-CAESAR] (Linked To: AL-QATTAN, Wassim Anwar).

   Designated pursuant to section 1(b)(i) of E.O. 13582, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582. Also designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, WASSIM ANWAR AL-QATTAN, a person whose property and interests in property are blocked pursuant to E.O. 13582. Additionally designated pursuant to Section 7412(a)(2)(A)(i) of the Caesar Act, for being a foreign person that knowingly provides significant financial, material, or technological support to, or knowingly engages in a significant transaction with the GOVERNMENT OF SYRIA (including any entity owned or controlled by the GOVERNMENT OF SYRIA) or a senior political figure of the GOVERNMENT OF SYRIA.

4. WASSIM KATTAN LLC (a.k.a. TWA LLC (Arabic: ا دبلايو تي شركة); a.k.a. WK LLC (Arabic: ك دبليو شركة)), Rural Damascus, Syria; Organization Established Date 04 Jul 2019; Organization Type: Sale of motor vehicle parts and accessories [SYRIA] (Linked To: AL-QATTAN, Wassim Anwar).

   Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, WASSIM ANWAR AL-QATTAN, a person whose property and interests in property are blocked pursuant to E.O. 13582.

5. LAROSA FURNITURE (Arabic: لاروسا مفروشات) (a.k.a. LAROSA FURNISHING), Damascus, Syria; Organization Type: Manufacture of furniture [SYRIA] (Linked To: AL-QATTAN, Wassim Anwar).

   Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, WASSIM ANWAR AL-QATTAN, a person whose property and interests in property are blocked pursuant to E.O. 13582.

6. AL-JALAA HOTEL (Arabic: الجلاء فندق) (a.k.a. AL-JALA' HOTEL; a.k.a. AL-JALAA), Mazzeh Motorway, Damascus, Syria; Organization Type: Short term accommodation activities [SYRIA].

   Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582.

7. MASSA PLAZA MALL (a.k.a. AL-MALIKI MALL (Arabic: مالكيال مول); a.k.a. MALKI MALL), Malki District, Damascus, Syria [SYRIA].

Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582.

8. QASIOUN MALL (Arabic: قاسيون مول) (a.k.a. QASIYUN MALL; a.k.a. QASSIOUN SHOPPING MALL), Barzeh District, Damascus, Syria [SYRIA].

Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582.

9. YALBAGHA COMPLEX (Arabic: يلبغا مجمع) (a.k.a. YALBUGHA COMPLEX; a.k.a. YALBUGHA REAL ESTATE COMPOUND), Damascus, Syria; Organization Type: Short term accommodation activities [SYRIA].

Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582.

Individual

1. HAMCHO, Sumaia Saber (Arabic: حمشو صـــابر ســـعمية) (a.k.a. HAMSHO, Somaya Saber), Doha, Qatar; DOB 16 Apr 1965; POB Damascus, Syria; nationality Syria; alt. nationality Qatar; Gender Female; Passport 01175686 (Qatar) (individual) [SYRIA-EO13894].

Dated: August 3, 2020.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2020–17211 Filed 8–5–20; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G of the Health Insurance Portability and Accountability Act (HIPPA) of 1996, as amended. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a) or 877A) with respect to whom the Secretary received information during the quarter ending June 30, 2020. For purposes of this listing, long-term residents, as defined in section 877(e)(2), are treated as if they were citizens of the United States who lost citizenship.

SUPPLEMENTARY INFORMATION:

Last name	First name	Middle name/initials
ABHAR WUENSCH	CHRISTA.	
ACKERMAN	LAURA	LISA
ACKERMANN	AXEL.	
AGHA	ALI	I.
AGHA	ZAREEN.	
Aguirre	Estefania.	
AHMED	EHTIAJ.	
AHN	KI	DONG
AIKINS	CLAIRE	M.
AIKINS	KINGSLEY	T.
AIN	MARK	J.

Last name	First name	Middle name/initials
AITCHISON	GEORGE	WILLIAM
AITKEN	CARMEN	C.
AITKEN	TIMOTHY	J.
AIZAWA	SHIGENORI.	
AJERSCH	ELLEN.	
AKED	CHRISTOPHER	J.
AKED	GILLIAN	K.
AKRA	DIRK	SALIH
Al Ansari	Talal	Abdulla
ALDER	DOUGLAS	ALLAN
ALDRED	LANE.	
Alehya	Ali	Abdullateef
ALFANNO	OMAR.	
ALGANS	LAURENT	PIERRE
Al-Hazeem	Abdulah	Zuhair
ALI	HASSAN	O.
ALI	PRASANNA.	
Al-Kalouti	Omar.	
ALLAL	NADINE	RACHELLE
ALLARS	MARIA	A.
AL-MALAZI	MAYYASA	SUSANNE
ALPERSTEIN	GARTH.	
ALPERSTEIN	MELISSA	ELISE BECKER
ALTENHOFF	JACQUELINE	A.
ALTFELD	MARCUS.	
ALTY	IAN	ASHLEY
ALVES MACEDO	GABRIELA.	
ALVIRI	ARVAND.	
ALZUPHAR	STEPHEN	JACQUES
AMANN	ANDREA	MARIA
AMBROSIO	GAETANO.	
AMBROSIO	LORRAINE.	
AMIN	SONAL.	
ANDERSEN-YOUNG	KATHERINE	ELIZABETH
Anderson	Jane	Sutherland
ANDERSON	SUSAN	JEAN
ANDRADE	RACHEL	JANE
ANDRE DE LA PORTE	VERONIQUE	CRISTINE
ANDREWS	JOAN	F.
ANGELI-WOLF	GLORIA	ELIZABETH
ANGEONESE	STEVE	PAUL
ANKER	ANNE-MARIE.	
ANTHONY	DAVID	M.
APAEZ	JORGE.	
APERY	DAVID	DENYS
APPLEYARD	CHRISTOPHER	MARK KENELM
ARAKAWA	MICHELLE	GEORGETTE
ARBER	CAROLINE	E.
ARGUELLES	ROSANNA	YCASIANO
ARKIN	NANCY.	
ARLT-HAMM	INES.	
ARMSTRONG	DAVID	A.
ARPAIO	LUCA	M.
ARUJ-HAIGH	SILVIA	LILIANA
ASAKAWA	MAKOTO.	
ASAKAWA	MIDORI.	
ASHTON	LEIGH	MIRANDA
ASIPOVICH	VARVARA.	
ASIPOVICH	VATSLAU.	
ASJES	LUCAS	JAN
AST	KARIN	SUSAN
Astbury	Kathleen	Ann
AUDI	JULIE.	
AUDI	YASMINE.	
AUPOIX	ALEX.	
AUSTIN	RUTH	BERE
AUYANG	ANETTE.	
BABA	KAZUYUKI.	
Bacharach	David	Lawrenece
BACHMANN	JESSICA	LORIANE
BADER	ALEXANDRA.	
BADGER	ANNE	LOUISE
BAE	MUN	SOO
BAE	SANG	HO

Last name	First name	Middle name/initials
BAERGEN	JOYCE	ARLENE
BAERT	CHRISTINA	ANTONIA MARIA ELISABETH
BAERT	NATHALIE	CAROLINE MARIA
BAGAYATKAR	NAINA.	
BAGHESTANI	ARDAVAN.	
BAHNAN	RANIA	F.
BAIRD	RICHARD	J.
BAK	THOMAS.	
BAKHOS	TANIA.	
BALAM	ESENC	MERIC
BALTES	MONIKA.	
BANFIELD	CHRISTOPHER	JOSEPH
Bantug Benitez	Jose	Francisco
BAQUERIZO	RICARDO	A.
BARAK	YAEL	VIKTORIA
BARCLAY	MARGARET.	
BARCLAY	ROBERT.	
BARGAGJLI	RICCARDO.	
BARKER	SUSAN	MARSHA
BARRE	PIERRE	STEPHANIE DENIS
BARROS	ANDRES	SANTIAGO
BARROS	JOSEFINA	WINIFRED
BARROS	TOMAS	JOSE
BARTALENA	GUIDO.	
BARTH	PATRICK	D.
BARTOLI	ROBERTA.	
BARTOLOME FERNANDEZ	JENNIFER	DANIELLE
BARTON	ALISTAIR	RAINE SINCLAIR
BARTON	JAMES	S.
BARTONVA BARTONOVA	ZDENKA.	
BASIC	NATASA.	
BASSAN JR	DAVID	MICHAEL
BATES	JILLIAN	M.
BATTLE	ANNE	B.
BATTLE	XAVIER	L.
BAUER	DIANE	PATRICIA
BAUMANN	PASCAL	SAMUEL
BAUSILI	SANTIAGO.	
BAWDEN	MARY.	
BAY	FRANCOIS	JOSEPH TOUSSAINT
BEACOCK	JANICE	M.
BEACOCK	MICHAEL	W.
BEAN	ANDREW	ALEXANDER
BEAUPIT	BLAYNE.	
BECK	JOHN	CHARLES CHRISTOPHER
BECK	THOMAS	DAMIAN
BECKLEY	SIMON	P.
BEDETTI	MARIAPAOLA.	
BEDWICK	ALLAN	LEON DAVID
BEGERT	MERYL	HELEN
BEGG	GAIL	JANINE
BEGG	JAMES	MARTIN
BEHLING	STEFAN.	
BEIDLEMAN	SADAKO	Y.
BEIER	DELORES	ANN
BELENTEPE	TOMOKO	T.
BELO	FREDERICO.	
BELZIL	DENISE.	
BENNETT	MOTOKO.	
BENTHAM	PETER	A.
BERENDS	ALLARD	HUGO
BERGE	ANNETTE	CAROL
BERGER	CATHRIN	RAHEL
BERGLAND	YVONNE	P.
BERGMAN	LUUK	PETER
BERNASCONI	NICOLAS	JUSTIN
Bernotat-Danielowski	Sabine.	
BERNSTEIN	MIZUE	H.
BERTI	IVANA	BRUNA
BETANT	JEREMIE	CHARLES
BEUKEMA	MARY.	
BEVIS	COLLEEN	BEVERLY
BHALLA	NAVEEN.	
BHIDE	PRIYA.	

Last name	First name	Middle name/initials
BI	MINGQIANG.	
BIBBY	ALICE	ANNA
BIBI	MUWAFFAK	A.
BIBI	RANA	H.
BIDDLECOMBE	MICHAEL.	
Bilfinger	Monica	Ruth
BIR	PRABHLEEN.	
Birchall	Anna.	
BIRNIE	KATHRYN	ANN MANSON
BISCHOFBERGER	JULIA	ALICE
BISHOP	DAVID.	
BISHOP	GILLIAN.	
BISLEY	SPENCER	JEREMY
BISWAS	PIYALI.	
BJELKE-WEIS	ANINE	NOEL
BLACK	CELESTE	MARIE
BLAIR	KAORI.	
BLANCHARD	PHILIPPE	ALEXANDRE
BLANDFORD	CLAUDIA	JANE
BLESER	SILKE.	
BLEWITT	RACHEL	FRANCES
BLOCH	ALICE	MARGARET
BLOECH	HENNING	M.
BLOXHAM	MARILYN	RUTH
BODDAERT	CHRISTIAN.	
BOHRA	HEMENDRA	SINGH
BOLF	DEBORAH	L.
BOLLA PITTALUGA	PAOLO.	
BOLLETER	ANDRES	SCOTT
BOMPHRAY	ANDREA.	
BOMPHRAY	GARY.	
BOND	DARRYL	K.
BONI	WILHELM	A.
BOON	BENJAMIN.	
BORCHERT	HENRI	CHRISTOPHER
BORDELEAU	RICHARD	P.
BOREEL	MARGUERITE	EMILIE
BORG	PASCALE	A.
Borovitz	Alexander.	
BOSCH	ANNEBELLE	E.
BOSCH	EVALINE	A.
BOSCH	PETER.	
BOSCH	RIMI.	
BOSWELL	KATE	E.
BOTHWELL-FERNANDES	JACQUELINE	SUE ANN
BOUCHER	DIANE	L.
BOURHIS	DANIELE.	
BOURHIS	YVES.	
Bourke	Tallulah	Erin
BOUVY	CAMILLE	LAURENCE
Bouvy	Pauline	Michele
BOWEN	BRIAN	H.
BOWLER	JOHN	TIMOTHY
BOWLER	KAREN	JAYNE
BOWMAN	STEWART	MACLEOD
BOYCE	THOMAS	MARK
BOYLE	MELANIE	J.
BOZORGMEHR	MARYAM.	
BRADBURY	ALISON	PAISLEY
BRADBURY	MEREDITH	G.
BRADBURY	SIMON	ALEXANDER
BRADFORD	SOFIA de AMARO	PAVAO
BRADLEY	JAMES	ROSS
BRADLEY	JEANETTE	A.
BRADLEY	JONATHAN	R.
BRADLEY	KENNETH	J.
BRADLEY	ROSEMARY.	
BRADLEY	STEPHEN.	
BRADY	COLLEEN	A.
BRANDT	CHRISTINA.	
BRANDT	LENNIE	DE
BRANT	CLAIRE.	
BRANT	DAVID.	
BRANTSCHEN	LEAH.	

Last name	First name	Middle name/initials
BRATTSTROM	ULLA.	
BRECHET	PHILIPPE	HENRI
BRECKBILL	KATHRYN	LEIGH
BREITLING	DENNIS.	
BRENER	ALFREDO.	
BRENNAN	KATHLEEN	ANN
BRENNINKMEYER	MADELEINE	AGNES MARGARTHA
BREUER	NORBERT.	
BRIAND	AMANDINE.	
BRIAND	GURVAN.	
BRIEN	SARA	J.
BRIERLEY	ADRIAN	W.
BRILEY	PAUL.	
BRIN	ANNE	C.
BRINCKMAN	BART.	
BRISSET	PAULE	MADELEINE
BROADBENT	OAN.	
BROWN	ADAM	NICHOLAS
BROWN	ANTHONY	J.
BROWN	JAMES	MELVILLE
BROWN	MARY	LOUISE
BRUEGGEMEIER	JANA.	
BRUEGGEMEIER	TIM.	
BRUGGEMAN	SHIRLEY	M.
BUCK	NICHOLAS	J.
BUENO	KEREN.	
BUENO	MAYA.	
Bufman	Gil	Michael
BUGNA	EMMANUELLE	ANNE
BULLA	PAMELA	ANN
BULLEN	ROBERT.	
BULLEN	ROBERT.	
BULLIVANT	JANE	CORDELIA
BULLOCK	DAVID	WILLIAM
Buonopane	Edward	Joseph
BURGER	CHRISTA.	
BURGER	MARIO.	
BURGER	SOPHIE	BEATRICE
BURGI	NICOLE	ALEXANDRA
BURGIN	KARL	EDMUND
BURKHARDT	SHANE.	
BURNS	MARY	P.
BUSCH-PETERSEN	JAKOB.	
Bye	Camilla	Catherine
BYRNE	JANET	LIDDLE
BYUN	HONG	SIK
CAHN VON SEELEN	ULF	MANFRED
CAILES	COLLEEN.	
CAINE	DONALD	EDWARD
CALDER	RHONDA	T.
CALDWELL	GERARD.	
CAMINOS	CASANDRA	NICOLE
CAMPBELL	ANTHONY	G.
CAMPBELL	CATHERINE	JEAN MACKAY
CAMPBELL	JEFFREY	W.
CAMPBELL	LORRAINE	C.
CAMPBELL	MARY-ANN.	
CANDRIES	MARIA	LENA FV
CAPEL	SUSAN	LOUISE
CARDIM	MAFALDA.	
CARLISLE	MICHAEL	H.
CARLISLE	SOPHIE	E.
CAROLINE	MARTINE	CAROLINE BLANCHE
Carrithers	Michael	Barnes
CARTER	ANDREA.	
CARTER	PAUL.	
CARTIGLIA	NICOLO.	
CARTWRIGHT	JULIE.	
CARUSO	JESSICA	STEFANIE
CASEY	FIONA.	
CASSAR	MARK	M.
CASSER	BONNIE.	
CASSAR		
CASTRACANE	LUBA.	

Last name	First name	Middle name/initials
CATO	BIRGIT.	
CAUSSE	OLIVIER.	
CAVALLI	SIMONE.	
Cavalli Beard	Erica	Ann
CAVANAUGH	DANIELLE.	
CECIL	MICHAEL.	
CEHA	MICHIEL	JAN
CERNIN	DANIEL.	
CHACKO	ANN-MARIE.	
CHALERMKITTCHAI	PONGTAWAT.	
CHAN	ALLAN	S.
CHAN	ASHLEY	WUN MUN
CHAN	KAM	LUN
CHAN	KENG	LOKE
CHAN	LENNARD	H.
CHAN	NINA.	
CHAN	PORTIA	YUEN-SHAN
CHAN	SHING	YAN
CHAN	SIEW	HOONG
CHAN	TARA	E.
CHAN	YEE	HUI
CHAN	YUK	SIN
CHANDARIA	SARIT.	
CHANDLER	REBECCA.	
CHANG	DONG-LONG.	
CHANG	LI-TIEN.	
CHANG	LI-YU.	
CHANG	MYOTIN.	
CHANG	PHOEBE.	
CHANG	RUEY-CHI	L.
CHANG	SHANG-CHIEH.	
CHANG	TIMOTHY	S.
CHAO	JENNY	J.
CHAO	YEN	YEN
CHARPENTIER	MYRIAM.	
CHATAIN	OLIVIER.	
CHELL	DAVID	EMANUEL
CHEN	CHIEN	CHEN
Chen	Chien Chung	Andrew
CHEN	CHIH	MING
CHEN	CHING	MEI
CHEN	CHING-YUAN.	
CHEN	CHIUEH-HUA.	
CHEN	CHUN	M.
CHEN	GANG.	
CHEN	HAO.	
Chen	Henry.	
CHEN	HSIN	YI
CHEN	LI-HUNG.	
CHEN	MARGARET	C.
CHEN	MEI-SHENG.	
Chen	Ming	Chein
Chen	Ming	Sheh
CHEN	NINGLIN.	
CHEN	SHERRY	CHEN-JUNG
CHEN	YI-YING.	
CHEN HSU	HSIU-MI.	
Cheng	Jeffrey.	
CHENG	SHUN-YUAN.	
CHEONG	JASON	BRYAN
CHERRY	PAUL.	
CHEUNG	TAT-WING	SIMON
Chivers	David	Hartland
CHO	HYUN	DAI
CHO	TAE	YONG
CHOI	EUJEAN.	
CHOI	HEE	YOUNG
CHOI	YONG	HWA
CHOLEWINSKI	PETER.	
CHOMETTE	ALEXANDRE	OLIVER
CHOO	STEPHANIE	WAN JUEN
CHOOMUENWAI	SAKECHAI.	
CHOU	CHE-WEI.	
CHOU	CHIA-YI.	

Last name	First name	Middle name/initials
CHOU	YU-TING.	
CHRISTOPOULOU	DINA.	
CHUGANI	SURESH.	
CHUNG	JIYOUNG.	
CIZERON	ALEXANDRA	IRENE
CLARK	BARBARA	LOUISE
CLARKSON	HELENE	EDITH
CLARKSON	MAX	ADAM
Clavelly	Sandrine	Michele Erol
CLEMENTS	CAROLINE	JANE
CLERC	ANNE	CATHERINE
CLEVEN	LAURA	ELISABETH MILLANIE VIRGINIA
CLOES	VERONIQUE	ANNE
CLOITRE	CHANTAL	TREMEL
COHEN	PETER	A.
Cohen	Rina	Isabella Lotti
COLACO	MARGARIDA	M.
COLACO	MARIA	F.
COLANTUONI	LIVIA.	
COLE	GABRIELLE.	
COLICCHIA	SILVINA.	
COLLIER	PAUL.	
COLLINS	JANELL	MARIE
COLSON	KATHERINE	ELISABETH MACDUFF
COMPTON	ANN	M.
CONBOY	JOEL	CHARLES
CONNOLLY	CATHERINE	L.
COOK	DAVID	RUSSELL
CORDARO	JOANNA.	
CORDIAL	ALEXANDER	MITCHELL
CORDIAL	MELANIE	VICTORIA
CORNES	CHARLOTTE	AILSA FERRAR
COTE	REAL	J.
COTMAN	AMANDA	SUSAN
COTTLE	PAUL	WESLEY
COURT	ADRIAN	R.
COX	DAVID	WESLEY
COX	KARL	EDWARD
CRAMM	GEORG.	
CRAMPTON	AMELIA	SARAH ROSE
CRANE	BARBARA	JOAN
CREASY	DIANNE	M.
CREMESE	GILBERT	J.
CRICHTON	CATHERINE	M.
CRICHTON	WILSON	A.
CRITTENDEN	JACINE	L.
CRIVELLI-AMSTUTZ	MIRIELLE	MIRA
CROCE	LEILA	ANGELA
Croin	Laura	Kay
CROW	CLAUDIA	JANE
CROWE	ALEXIS	LEAH
CUMING	SADIE	E.
CURTIS	COLLEEN	A.
CURTIS	FRED	D.
CZIEPLUCH	CELINA	VIVIAN
DAALEN	OLIVER	MICHAEL VAN
DAI	BAOJUN BAIJUN.	
DAI	YUANSHUN.	
DAKU	KENNETH	E.
DALSANIA	DHIRAJLAL	L.
DANCIK	DEBORAH	BLOOMFIELD
DANIELI	ANNA	TERESA
DANIELLE	LOUISE	M.
DANIELS	MONIQUE	JEANNE MARIE
Darling	Madison	Amaya
DASH	KAIREN	ELIZABETH
D'ASTICI	GIUSEPPE.	
DAUJAT	MAXIME	THOMAS
DAURIGNAC	ALICIA	MARIE
DAVID	ELISABETH	MARIE
DAVID	LARISSA	CHANTELLE
DAVIDSON	COLLEEN.	
DAVIDSON	IAIN	STEWART
DAVIDSON	JAMES	G.

Last name	First name	Middle name/initials
DAVIE	GEORGE	W.
DAY	JANET	ANNE
DAZA	ANA	F.
DE BOER	THEO	FRANCIS
de Chanville d'Arc	Philippe	Jean Pierre Baudesson
DE GALEMBERT	LORRAINE	DE BODIN
DE GREEF	WENDY.	
DE KALBERMATTEN	JASMINE	MARIE LOUISE
De KERGUIZIAU De KERVASDOUE	LAURE	MARY FRANCE
DE MEIJERE	WESSEL	JOHAN
DE MONTALEMBERT	ROXANE	MARTHE
DE MORAES	CONSUELO	M.
DE MORALES		
DE SILVA	COURTNEY.	
DE SILVA	DEBORAH	M.
DE SILVA	JOSHUA	J.
DE SILVA	MARC	A.
DE SOUZA	JOSHUA	ALEXANDER
DE SOUZA	MARCELO	N.
DE TORO	MARIANA.	
DE VOGHEL	MARIE-LAURE	CHRISTINE
DE VRIES	DANIEL	M.
DE WITTE	SAMUEL	PATRICK
Declerck	Vincent	Florian
DEETER	MICHAEL	ALAN
DEITZ	MARK	PERRY
DEL MARMOL	JULIEN	BILL CHARLES EMMANUEL
DELAYE	THOMAS.	
DELERUE	CECILE	THERESE NEZAHAT TARDU
DELTOUR	JEAN-BAPTISTE	ALAIN
DEMBINSKI	MIGUEL	M.
DEMEUSE	SIMON.	
DEMEYER	NICHOLAS.	
DEN TEX	MARIE	BEATRIX
DENNING	PIERS	WILLIAM
DERGHAM	SERGE.	
DERMITZEL	DANIEL.	
DESBIENS	NATHALIE.	
DEUTSCH	SHIRA	HANA
DEVILLERS	SOPHIE.	
DEVINAT	FABIENNE	RENEE
DEVLIN	ALAN	JAMES
DEVOS	LIEVE.	
DEVRIENT	ANNE	GOODE
DEWHIRST	JONATHAN	ADAM
DEWITTE	NATHALIE.	
DEXTER	DAVID	KANNER
DEYHLE	RICHARD	RUDOLF ROLF
DHAKAL	HARI	P.
DHAKAL	PAWANITA	SHROTRIYA
DIAS BARATA	MELANIE	GOETTI
DIAW	BORIS	B.
DIBILDOX	LETICIA	I.
DIEDRICH	ANNABEL	S.
DIEDRICH	JOERG.	
DIEDRICH	MARTINA	S.
Dieter	Michaella	Anne
DIEWOKOVA	KRISTYNA.	
DIGNAM	DAVID.	
DIGNAM	EVELYN.	
DIHOVICNI	DJORDJE.	
DIHOVICNI	LARA.	
DIXON	KAREN	JUDY
DIXON	MARCHANT.	
DJIRDJIRAN	CONSTANTIN	HAIK
DOCKING	EMMA	J.
DOERKSEN	WILMER	JERRY
DOERNBACH	NATHANIEL	LOUIS
DOHERTY	CATHERINE.	
DOLEMAN	BRETT	J.
DOLLE	NICOLE	GAY
DOLSKI	DIANE	G.
DOLSKI	GARY	L.
Domange-Brown	Kathleen	Ann

Last name	First name	Middle name/initials
DONDE	MANDAR	S.
DOPP	SARAH	D.
DORSEY	TATIANA	ELIZABETH
DOUGLAS	BRYCE.	
DOUMET	JOSEPH	PIERRE
DRADER	JESSICA	REA
DRAGANOIU	ELENA	S.
DRAPER	ANTHONY	J.
DREPPER	ULRICH.	
DREW	MARGARET	E.
DREYFUS	GILLES.	
DREZE	BENOIT	JOSE
DROPE	JACQUELINE	MARIE
DROUIN-ALLAIRE	MAXIME.	
DRUESNE	EMMY	MARY
DUARTE	ROBERTO	DAVID
DUBOIS	FABRICE.	
DUFFY	OLIVER	GEORGE
DUITEMEIJER	MARTEN	ANTON
DUNCANSON	EMILY	ERIN
Dungan	Christopher William	Charles
DUNKIN	THOMAS	WAYNE
DUPLESSIS	Kathleen	REGINA
EASDALE	REBECCA	LEE GILMORE
Eastwood	Karen	Lynn
EDDY	TERENCE.	
EDE	CHRISTOPHER	ROLAND
EGGENBERGER	ETIENNE.	
EHRHART	MICHAEL	JOSEF
EISENRING-NIEDERER	BRIGITTE	MICHELLE
ELDON-EDINTON ELDON EDINGTON	SIMON.	
ELLING	MASAKO.	
ELLIOTT	BRIAN.	
ELLIOTT	SHARANE	LOUISE
ELLISON	STACY	ANN
ELOFF	JOHANNES	JACOBUS
ELSDON-DEW	EMMA	L.
Ely	Broderick	Paul
EMSERMANN	ISABEL	KATHARINA
Endo	Eric	Hirotaka
ENDOH	MISAKO.	
ENGELEN	SYLVIA.	
ENGELHORN	MANUEL	EMILE
ENGLEBERT	CHARLINE.	
ENOKIDA	SHUICHI.	
Ericksen	Janet	Ruth
ERIKSSON	KATHERINE	JANE COOPER
ERLANGER	WENDY.	
ERLICH	DAVID.	
ERLICH	MARGALIT.	
ESCOLME	KATHLEEN	MYERS
ESSELEN	ISABELLE	EVARITA
ETELAPERA	ESA	O.
EUSTAQUIO	DANIEL.	
EVAMY	ANDREW	DUNCAN
EVANS	DOREEN	C.
EVANS	MEGAN	ASHLEY
EWART	ELIZABETH.	
EYMANN	MELANIE	BIANCA
EYSCHEN	MARC	ALPHONSE
EZION	ORLY	MIRIAM
FAFALIOS	STAMOS	PANOS
Falk	Pamela	Kay
FARNWORTH	NIGEL.	
FARQUHARSON-ROBERTS	JEAN	NIELSEN
FARZANEGAN	FARZAN.	
FAXEN	ANNA	C.
FEBLES	PEDRO.	
FEEHAN	ALICE	JOHANNA EVA
FEIST	JORDAN	L.
FEIST	KELVIN	G.
FEIST	TRACEY	A.
FELCHLIN DUMONT	MARTINA	ELISABETH
Feldmayer	Matthias.	

Last name	First name	Middle name/initials
FELDMAYER	STEFANIE.	
FENICHEL	SULYA	ANNE
FERCHER	EDILENE.	
FERCHER	KURT	C.
FERGUSON	JENNIFER	DIANE
FERGUSON	PHILLIP.	
FERLAND	JOSEE.	
FERNANDEZ	GABRIEL.	
FERRANDEZ	BEATRICE	M.
FERRANDEZ	PASCAL	A.
FIDDY	FARIMAH.	
FILLER	HELEN.	
FINKELSTEIN	PHILIPPE.	
FINKS	FRANCESCA.	
FINLAN	JOHN	WILLIAM
Finnie	Tania	Renae
FISCH	MARTA	LYNNE
FIUME	ELISA.	
FLEET	GILLIAN	J.
FLEET	NEVILLE	J.
Fleiger	Dianne	Patrice
Fleischmann	Maayan.	
FLEMING	JANET.	
FLEMING	KIMBERLY	KAY
FLETCHER	BENJAMIN	HAROLD
FLORENTIN	LIONEL	SERGE JEAN
FLORY	BERND	W.
FLUECK	DAVID	C.
FOERSTER	HELMUT	G.
FOERSTER	NICOLAS	H.
FONG	SHEILA	K.
FONG	WESLEY.	
FONROSE	REGINALD	S.
FONTANA	GIJSBERTHA	A.
Fontwit	Sandy.	
FOO	EUGENE	GUO HAO
FOO	MAW	DER
FOO	SUAN	TONG
FORBES-JAEGER	GABRIEL	ROMAIN
FORCHINI	JESSICA	MARIE
FORD	CHRISTOPHER	DAVID
FORSLUND	JOHN	E.
FORWOOD	SAMANTHA.	
FOUQUET	ROMA-JIN (TOMA-JIN?)	MORIKAWA
FOX	DANIEL	EJ
FOX	FREDERIC	MARTIN
FOX	NICOLA	THERESE
FOX	NORMA	E.
FRANCIS	BRUCE	G.
FRANCIS	PAULINE	J.
FRANCIS-BRUCE	SUSAN	GILLIAN
FRANCO-OBREGON	ALFREDO.	
FRANKEL	JENNIFER	ROBYN
Fraser	Robert	Eilliam
FREEMAN	ANNE-MARIE	C.
FREEMAN	RAYMONDO.	
FREI	KARIN.	
FREI	MICHAEL.	
FREUND	SACHIYO	Y.
FREW	JAMES	W.
FREW	SHARON	R.
FREY	MARIEL	MARIKA
FRIDJONSSON	EINAR	O.
FRIEDLI	DANIEL	ALBERT
FRIESE	LAILA	JEANETTE
Friesen	Donald	Kenneth
FUJIOKA	YOSUKE.	
FUJITA	DIANE	M.
FUJITA	LAURA	MARIE
FUJITA	MARK	K.
FUJITA	MICHELLE	LYNNE
FUJIWARA	ERI.	
FUJIWARA	RYO.	
FUKUI	TETSUO.	

Last name	First name	Middle name/initials
FULD	CELESTINE	OCTAVIA
FULTHEIM	SHAI.	
FULTHEIM	YAEL.	
FUMAGALLI	INES	MARIE GIOVANNA
FUNK	CURTIS	H.
FUREST	MARIA	A.
FURNER	GUY	V.
FURUI	YOSHIKO.	
FURUYA	RUMIKO.	
FUSCO	ANNAMARIA.	
GABRIELIDIS	KATHERINE.	
GAEHWILER	NIGEL	MICHAEL
GAFFNEY	BRIAN	MALCOLM
GALLAGHER	KEELY	ANN
GALLAGHER	TAMMY	S.J.
GALLETTA	NEIL.	
GALLON	GRAHAM.	
GALPIN	RICHARD.	
GALZA	LOIS	COLETTE
GAMMETER	STEPHAN	ROBERT
GANNOT	GERSHON.	
GANTER	SYLVIE	A.
GARAT	ELODIE	KRISTINA EMILIE
GARCIA	FRANCISCO.	
GARDNER	CHRISTOPHER	RODWAY
GARDNER	PATRICIA	MARY
GARGANESE	GIORGIO.	
GARGOUR	JACQUES.	
GARIBALDI	STEPHEN	JOSEPH
GARRAND	LISA	ANN
GARRETT	MICHELLE	LOUISE
GARRETT	SUSAN.	
GARSIDE	NICHOLAS	A.
GASPARINI	GIORGIO.	
GASPARINI	LUCIANA	PODA
GATFIELD	DENISE	M STEINER
GAUTHIER	MARION	PAULINE TAQUOIS
GAUTHIER	VINCENT.	
GAUVREAU	GASTON	G.
GAUVREAU	GUDRUN.	
GAZAL	CEDRIC.	
GAZAL	CHARLES.	
GEELEN	ERIK	LOUIS
GEFFEN	SAUL	B.
GEIJER	ELIZABETH	ANN BYE
GERARD	ALBAN	MARY
GERBER	ROY	PETER
GERRESE	JOHAN	W.
GIBSON	JENNIFER	JEAN KINLOCH
GIELEN	CHRISTA.	
GIELEN	GREGOR.	
GIL	CRISTIAN.	
GILARDINI	GAIA	CHARLOTTE
GILBERTSON	GEORGIA	L.
GILBERTSON	RICHARD	J.
GIRARD	JENNIFER	RACHEL
GIUSTINIANI-MILLS	JULIE.	
GLARE	MONICA.	
GLARE	PAUL	A.
GLENDALE	JOAN	I.
GO	KERWIN	C.
GODFREY	SHIRLEY	E.
GODREY	KELLY	C.
GODFREY		
GOLDBERG	LAWRENCE	CHARLES
GOMEZ	MARTA	I.
GOMEZ GIRALDO	BEATRIZ	L.
GONG	MEI.	
GONZALEZ	ALEJANDRO.	
GONZALEZ	IVAN	J.
GONZALEZ	M.	BARRON
GONZALEZ	OSCAR.	
Goodman (nee Morgan)	Katherine	Anne Kyle
GORIS	IISE	JOZEF MATILDA

Last name	First name	Middle name/initials
GORSLINE	CARA	LEA A
GOTTSCHALK	BRIAN	PHILIP
GOULD	PHILIP	HENDRIK
GRABSKI	ERIKA.	
GRABSKI	KARL	E.
GRAHAM	JANE	E.
GRAHAM	PETER	M.
Graham Brims	David	Arthur
GRAHAME	JUDITH	JOANNA
GRANETT	DEBRA	J.
GRANT	DANIEL	ALEXANDER SAMUEL
GRANT	TANYA.	
GRAVES	ALIA	MARIE
GRAVES	FIONA	MARIE
GRAY	EMMA	JANE
GRAY	VICTORIA	ANNE MARIE CHRISTOPHER
GREEN	CAROLINE	MARGARET KVILJORD
GREEN	RICHARD	F.
GREENE	LAURA	VERONICA
GREENE	MITSUKO.	
GREENE	THOMAS	MATTHEW
GREGORY	EMMA.	
GRESZCZUK	BARBARA	M.
GRETER	JURG JUERG.	
GREWING	DANIEL.	
GREY	CLARE	P.
GRIFFITH	MICHAEL	JOHN
GROSS	SEAN	PETER
GROVER	CLIFFORD	JOHN
GRUENER	MICHAEL.	
GSCHWENDER	SEBASTIAN.	
GU	CHUNGUANG.	
GU	FAN.	
GUBLER	JOYCE	PAIGE
GUEUR	SEBASTIEN.	
GUGGER	EDITH	E.
Guidi	Jan	Domenico
GUILLOUX	SOLENE	GINETTE
GUO	WANG	MEI CHI
GUO	YING.	
GUPTA	AMITA.	
GUPTA	RAJIV.	
GUPTA	SAVIRA.	
GUPTA-MITTAL	NEETU.	
GUTH	BENJAMIN	JORDAN
GUTJAHR	ROBERT	MICHAEL
Guy	Lauren	Pauline
HAAGENSEN	FRANK	D.
HAASS	FRIEDERIKE	A.
HAKIM	RICHARD	WALTER EMMANUEL
HALL	BROCK	GRAHAM
Hall	Edwards	Rufus
HALLER	RICHARD	RAY
HAMARD	MARIA	A.
HAMARD	YVES	J.
HAMILTON	EMMA	LEA
HAMILTON	JOHN	PAUL
HAMILTON	MARY	SUSAN
Hammer	Richard	Earl
HAMMOND	MARGARET	FAY
HAN	SEONG	WEON
HAND	ENCARNACION.	
HAND	JOANNE	BOBBIE
HANSEN	ANNELOTTE	M.
Hao	Yunpeng.	
HARD	RONALD	THOMAS
HARDIN	CHRISTIAN	ALEXANDER
HARDING	CHARLES	M.
HARDING	ELISABETH.	
HARDING	JENNIFER	ANN
HARDMAN	LAURA	ANN
HARDY	KATIE	ANN
HARRE	HORACE	R.
HARRELL-BOND	DAVID	EDWARD

Last name	First name	Middle name/initials
HARRIS	MARK	D.
HARSONO	VINCENT VINCENTIUS	I.
HART	MARY	CHRISTINE
HARTNAGEL	TIMOTHY	FRANK
HASEGAWA	MEGUMI.	
HASEGAWA	YOSHIYUKI.	
HASHIMOTO	KAZUO.	
Hattori	Kiyoshi.	
HAU	MARIA	LISA
HAUER	RANDOLPH	N.
HAUSER	THOMAS	JAMES OSCAR
HAVEN	FRANCIS	RENE
HAYMET	ANTHONY	DOUGLAS JOHN
HAZELHOFF	HENK HENDRIK	L.
HAZELHOFF	INGRID	M.E.
HEFFERNAN	CHERYL	A.
HEFFERNAN	ROBERT	J.
HELG	MARKUS	R.
HELLER	JESSICA	LYNN
HELMICK	DORA.	
HENCK	JAN-OLAV.	
HENNING	GRAHAM	KEITH
HERBERT-SMITH	MARTYN	GILROY
HERER	ARNOLD.	
HERMAN	SARAH	LEA
HERR	KENNETH	SCOTT
HERRAN	SEBSTIAN	CHARLES EDWARD
HERRY	ROMAIN.	
HERTOG	FRANCINE	ELISE DEN
HESS	CHRISTINA.	
Hetherington	Joyce	Ann
HETZ	LINDA	C.
Hewlett	Helena	Theodora
HEWSON	MARION.	
HEYSE	SARA	K.
HIBBS	ELSA	LORETTA KAMYRE
HIGA	FUMI.	
HIGA	YOSHIMITSU.	
HILL	LAURENCE	C.
HILL	SIJGJE	J.
HILLEN	JAN	DANIEL
HILLIER	JOHN	H.
HILLIGES	KLAUS-DIETER.	
HINDERMEYER	ANDREW	WILLIAM
HINRICHS	CHRISTOPHER	LEE
HIOKI	HIDETAKA.	
HIRANO	MIKITO.	
HIRATO	AKIO.	
HIRATO	TERUKO.	
HISAEDA	MIHO.	
HISAEDA	SHUJI.	
HIXSON	SHANE	RYAN
Hoedemaker	John Robert	Rients
HOERSCH	SEBASTIAN.	
HOFMAN	CATHERINE	DIANA
HOFSTADLER	PATRICK.	
HOGARTH	KATHERINE	MONICK
HOGUE	MIDORI.	
HOHL	URSULA	MARIA
HOLDEN	PERI	ATAMAN
HOLLANDS	JAN.	
HOLLENBECK	CHRISTOPHER	MARK
HOLLIS	ALISON	ELIZABETH
HOLM	ARNOLD.	
HOLROYDE	DENISE	M.
HOLROYDE	JOHN	K.
HOLZER	LILLIAN	M.
HOMMEL	HANS	G.
HOMUNG	VERONIQUE	JENNIFER JOAN
HONG	HEA	RA
HONG	SUJIN.	
HOPE	AMBER.	
HORAN	AVSHALOM.	
HORIKOSHI	NOBUKO.	

Last name	First name	Middle name/initials
HORLICK	SIMON.	
HORNE	SANDRA.	
HORNG	JENG	SHIUANN
HORNIK	YONI.	
HORSWILL	AMANDA	C.
HOTCHKISS	AMY	LOUISE
HOUGH	SABINE	F.O.
HOURANI	FAYEK	S.
HOVAGUIMIAN	CATHERINE.	
HOW	EDITH.	
HOW	PETER	C.
HOWARD	AUDREY	R.
HOWARTH	CHRISTOPHER	PETER WILLIAM
HOWES	BRYNA.	
HOWIE	ELIZABETH	ANTONIA
Hsiao	Jing-Jing.	
HSU	HAO-FENG.	
HSU	JEN	DA
HSU	LING	YUN
HSU	MEI-HSIU.	
HSU	SHIH-FEI.	
Hsu	Wei	Hsuan
Hu	Howard.	
HUANG	CHI-CHUAN.	
HUANG	HAI.	
HUANG	HUNG-HIS HUNG-HSI.	
HUANG	JIA-HONG.	
HUANG	JIAN	CHENG
HUANG	JIASHENG.	
HUANG	KUANG	HUI
HUANG	PATRICK.	
HUANG	SHECI.	
HUANG	SIN	CHEN
HUANG	TAMMY.	
HUANG	YU-CHEN.	
HUBER	ERIK	DANIEL
HUBER	NICKLAUS	HANS
HUDSON	PAMELA	M.
HUELCK	KATHRIN.	
HUGHES	KATHRYN	RHIAN
HUGHES	RITA	A.
HUNG	LING-CHUN.	
HUNTER-JONES	JAMES	PATRICK
HURFORD	RACHEL	MARGARET
HURLBURT	OLIVE	MARIE
HUSTERT	SEBASTIAN	JOHN
HUSTING	STEVEN	JOSEPH
HUTTON	JOHN	JOSEPH
HUTTON	LORRAINE	M.
HWANG	YOUNG	H.
IBSEN	NORA	BERGLIOT
ICHIKAWA	ATSUKO.	
ICHIKAWA	HIROSHI.	
ICHIKAWA	TAKAKO.	
IIYN	DAVID	ANDREW
IKAI	MASATO.	
IKAI	YOSHIKO.	
IM	SUZY.	
IMHASLY	MICHEL.	
INAMI	CHIEKO.	
INAMI	SHUJI.	
INOUE	MAYUMI.	
INOUE	YUKI.	
INUZUKA	SADASHI.	
IONESCU	ANGELA	VENERA
IONESCU	NICU.	
IP	WING	PING SANDY
IRANI	ZUBIN	J.
IRVING	KATHY	SUE
ISHIHARA	YURI.	
ITO	TAKASHI.	
ITZKOVICH	JUDITH	SIEGEL
IVANYI	KATALIN.	
IWAMURA	NOBUKO.	

Last name	First name	Middle name/initials
IWASAKI	YOSHIHISA.	
IWASAKI	YURIKO.	
IYER	INDUBALA	V.
JABER	JAD	RABAH
JACOBSON	CHRISTINE.	
JACQUET	VERONIQUE	MARIE
JAENCHEN	NICOLE	C.
JAENCHEN	TOBIAS.	
JAMES	SHAUN	PATRICK
JANES	HILLARY.	
JAOUEN	MARION.	
JAROSSI	ROBIN	VINCENT
JARRETT	JOHN	D.
JARRETT	MADONNA	L.
JAYA	YANTO.	
JEFFERIES	PAMELA	Z.
JENKINSON	GEORGE	ANTHONY SAMUEL BANKS
JENSEN	FRANCES	ELAINE
JENSEN	JOHN	TILLOTSON
JENSEN	MARGARET	STONG
JENSTER	CARL	CHRISTIAN VILLENDRUP
JEON	WON	KYUNG
JEWEL	YOKO	H.
JEWITT	SAM	OLIVER
JHALA	PRADHUMAN.	
JHIN	JOANN	EUN YOUNG
JIANG	HONG.	
JIN	JING.	
JING	QI.	
JOGGI	JOELLE	KIMBERLEY
JOHNSON	ADAM.	
JOHNSON	KODY	LAYNE
JOHNSON	MARGARET	A.
JOHNSTON	STUART	G.
JONES	BENJAMIN	MARTIN
JONES	JENNIFER	S.
JONES	JENNY	VIRGINIA
JONES	JONATHAN	CHARLES KVILJORD
JONES	MARILYN	GAIL KVILJORD
JONES	MAURICE	ANTOWAUN
JONES	NEIL.	
JONES	RHIAN	H.
Jonkman	Julie	Ann
JORDAN	MADILYNN	A.
JORDAN	MARY	ANN
JORO	TARJA.	
JOSEPH	ANAIS	VIOLETTE
JOYCE	JOHANNA.	
JU	JIANDONG.	
JUDEAUX (BERNARD)	SYLVIANE.	
JULIEN	LAURA	ELISABETH
JULIEN	MATHIEU.	
JUN	MI	YUNG
JUNG	DANIEL	PARK
JUNG	HSIAO	MEI
KACHRA	ARIFF	M.
KAEGI	RAPHAEL.	
KAHYA	SAMI	ARI
KAKIHARA	NORIE.	
Kalin	Kathleen	Dorothy
KAMAT	PRIYA	RUKMINI
KAMEDA	TOMOKO.	
KAMINSKI	ALEXANDRA.	
KAMPHAUSEN	ALISA.	
KANAGAWA	FUMIHIKO.	
KANDA	JUNKO.	
KANEKO	EMI.	
KANEKO	YASUKO.	
KANETA	MITSUYO.	
KANG	DAE	JIN
KANG	JINOK	KIM
KAREKIAS	CHRISTINA.	
KARINO	SACHINKO.	
KARINO	TOMOHIRO.	

Last name	First name	Middle name/initials
Karlson	Jeffrey	Scott
KASAHARA	AKIKO.	
KASBERGEN	JOHANNUS	CORNELUS MARIA
KASTNER	DILLION	GABRIEL
KATCHALUBA	MARIA	CRISTINA
Kates	Stephanie	Rebecca
KATZ	JUDITH	MARGARET
KATZ	SAMSON	ROBERT
KAUSHAL	BALINDER	KRISHNA
KAVURI	RADHIKA	RANI
KAWA	HIROSHI.	
KAWA	JUNKO.	
KAWAMURA	HIDEKO.	
KAWAMURA	TAKEO.	
KAZI	MUSHARAF	S.
KAZI	NABILA.	
KAZI	ZARA	M.
KEARNEY	CATHERINE	A.
KEARNEY	MARYANNE	KAREN
KEIGHTLEY	Alexander	James
KEIJER	NINA	MARCHIEN
KEIJER	THOMAS	BEREND
KEITH-KING	SHERRY	MEREDITH
KEK	YOKE	MENG
KELLO	ESTEBAN.	
KELSEY	KAORU	O.
KENNEA	YVONNE	MARGARET
KENNEDY	ALEXANDER	JAMES
KERSTEEN	GRIZELDA	SARAH
KERZINGER	ROLF	PETER
KESHAVARZ	PEDRAM.	
KESLER	OLIVERA	ELIZABETH
KFOURY	MARCEL.	
KHADER	NAIM.	
KHALID	ABDUL-AZIZ.	
KILBANE	CAROLINE.	
KILBANE	MICHAEL	GERARD
KILLEWALD	SIDNEY	MAYA
KILLIAS LEUTWILER	LORETTA	MARIA
KIM	CHRIS.	
KIM	DUCK	JU
KIM	HEATH.	
KIM	HYUN	SOO
KIM	HYUNSOO.	
KIM	JAMES	TAE YUN
KIM	JEONG	MEE
KIM	JESSICA	HYO-JUNG
KIM	JIYOUNG.	
KIM	SANG	KYOM
KIM	SOON	HEE
Kim	Woo	Sung
KIM	YONG	WON
KIMURA	MIHOKO	KATHARINE
KINDLER	NORA.	
KINDLER	THOMAS.	
KINKELA	DANIEL.	
KINRADE	CLIVE	V.
KINRADE	MHAIRI.	
KIRCHHOFFER	TAREK-FABIAN.	
KIRKBRIDE	GORDON.	
KIRKPATRICK	TOMOKO	U.
KITAGAWA	MASAHISA.	
KITAGAWA	YOKO.	
KITAMURA	SAKAE.	
KITANAKA	MIYEKO	RUTH
KITCHENER	ANTONY	M.
KJELSRUD	HANS	C.
KLASSEN	JOANN	ELAINE
KLEE	SIMONE.	
KLEIN	THERESA	CHRISTINA MICHAELA
KLEINSTUECK	DOMINIK	MARIUS
KLINE	SALLI	JANE
KLINGELHOFER	ANGELIKA.	
KNATCHBULL	AMBER	DIANA PATRICIA

Last name	First name	Middle name/initials
KNATCHBULL	MILO	COLUMBUS JOHN
KNATTEN	HANNE.	
Knight	Craig	Randall
KNORR	CORI	ANNE
KO	NAI-WEN.	
KO	TAEWOONG.	
KO	TAK	YAN ANSON
KOCHER	SORAYA.	
KOEDA	YUKO.	
KOEHL	STEFAN	LEWIS
KOENIG	BERNARD	PAUL
KOENTGEN	BIANCA.	
KOIVUMAKI	LIISA	HANNELE
KOIZUMI	MITSUYA.	
KOIZUMI	NAOMI.	
KOLENDA	PAUL	JAMES
KOLIVARIWALA	SHIREEN.	
KOLLINTZAS	EVANGELOS.	
KON	SHINTARO.	
KOPPEL	RICHARD	MARTIN
KORDA	CEDRIC	JAMES
KOREEDA	RIKA.	
KOTANI	KAXUO KAZUO.	
KOTANI	YASUKO.	
KOTILAINE	JENNIFER	BAKER
KOURANOV	FEDOR	N.
KOURANOVA	ALEXANDRA	A.
KOWING	HWAY	ZEAN
KRAG	ANDREW	GEORGE SEVERIN
KRAL	TOBI	V.
KRAMME	ANNABELLE.	
KRAUTHAMMER	MICHAEL	O.
KRAWITZ	MARTIN	A.
KREMENLIEV	GEORGI	VESSELINOV
KREMER	HERMAN	ALEXANDER GEORGE
KRENN	RICHARD	J.
KRIEGER	RALF.	
KRIJGSMAN	HENRIETTE	TAETSKE JOHANNA
KROL	WOJCIECH.	
KRONENTHAL	MELISSA.	
KROTO	MARGARET.	
KROTO (DECD 4/30/16)	HAROLD	W.
KRUEGER	KIMBERLEY.	
KUCHER	TRENT	S.
KUDO	AYUMI.	
KUIJTEN	JOHN	P.
KUIPER	ESGO	TACO
KUMAR	SANJEEV.	
KUNDE	KIRSTEN.	
KUNKEL	PATRICIA	MARIE
KUNZ	ALEX	ANDREW
KUROKWA KUROKAWA	TORU.	
KUTSUKAKE	NAOKO.	
KUTSUKAKE	YOSHIHIKO.	
Kwan	Christen	Lee
LA FORTUNE	MICHELLE.	
Lacaze	Brigitte.	
LACHANCE	MARIE-CLAUDE.	
LACK	YUKO.	
LACOMA	YOLANDA.	
LACY	MARGRIET	B.
LADAGE	ANGELIQUE.	
LADEBAT	LIONEL	JOSEPH
LAEDERICH-MCALEE	LIOUBA	JEANETTE
LAENGRICHT	DIRK	FRITZ
LAFFERTY	CALLUM.	
Lai	Chung	Fat
LAI	SHENG.	
LAIDLAW	FERGUS	RICHARD PLAYFAIR
LAING	DONALD	G.
LAKE	TOVE	E.
LAKIN	ERIC	DANIEL
L'ALLEWMAIN	VIRGINIE	CAROLINE
LAMARE	STEVEN	EDWARD

Last name	First name	Middle name/initials
LANG	SYLVIA	H.
LANGFORD	WILLIAM	BENEDICT
LANKENAU	ROBERT.	
LANNOY	GUY	GERALD
LAO	BAOMU.	
LAOHAVALEESON	EKARAT.	
LARDON	NICOLE	EVELINE
LARRETT	ANNE	CATHERINE
LARRINAGA	MARTA	BEATRIZ
LARSEN	HANNE	PICO
LASBY	KATHERINE	TAYLOR
LASNET	CECILY.	
LATRY	CAROLE	LYNN
LATRY	CORINE	EMILY
LAU	JOEL	KAI-XIANG
LAU	KIN	N.
LAUDIEN	ANDREA	M.
LAURENT	CLAIRE	FRANCOISE GENNY
LAURIE	AVRUM	STEPHEN
LAVANCHY	ZACHARY	ALEXANDRE
LAWRENCE	DANIEL	PAUL
LE COENT LASRY	VIVIANE.	
Le HYARIC	BRIGITTE.	
LEA	ANDREW	PAUL
LEA	ERIN	JULIANA
LEASK	IAN	C.
LEBRUN	PAUL	A.
LECLERC	DENIS.	
LEE	ALEXANDER.	
LEE	BYEONG	H.
LEE	CAROL	S.
Lee	Chi	Won
LEE	CHI-YU	GREGORY
LEE	CHRISTOPHER	JIA YAN
LEE	CHUNG	ON
LEE	ERIN	SUE HYUN
LEE	IN-JIN.	
LEE	JACQUELINE.	
LEE	JEAN.	
Lee	Jeong	Ae
LEE	JUNGSIM	K.
LEE	MYUNG	J.
LEE	SHIH-CHANG.	
LEE	SOYUN.	
LEE	YONG	HO
Lee	Yoomi.	
LEECH	ROBERT	H.
LEFEBVRE	LIONEL.	
LEFEBVRE	MICHELE	ALINE
LEITE	ANA	LUISA
LEJINS	ILMARS	ATIS
LEMMON	TIMOTHY	R.
LEPATSKI	CATHERINE.	
LEQUOY	EDMEE	LAURENCE
LERNER	ELISABETH.	
LEROY-TURMEL	CHARLOTTE	GERMAINE
LESUR	MARINE.	
LETAC	CHRISTOPHE	STANLEY
LETOURNEUR	DIANE.	
Leung	Tiffany.	
LEUNG	VICKY	W.
LEVERSHA	SIMON	D.
LEVI	GEORGE.	
LEVIN	MARTIN.	
Levitt	Ian	Michael
LI	JIAN.	
Li	Kim	Pang
LI	QIAN	QI
LI	Tzu	Chun
LI	WING	YING H
LI	XING.	
LI	XING.	
Li	Yinghao.	
Li	Yinghao.	

Last name	First name	Middle name/initials
LIANG	CHENG-PO.	
LICHTSTEINER	BENNO.	
LIEB	CHRISTOPHER	E.
Lightburn	Jeffrey	Thomas
Lightburn	Patricia	Mary
LIM	ALLAN	M.
LIM	ISELER	YING CHEY
LIM	NAOMI	SHI-NING
LIN	HAIFENG.	
LIN	HIS-YI HSI-YI.	
Lin	Jerry.	
Lin	Johnson	Loong Hsien
Lin	Michael	C.
LIN	SHYR-YI.	
Lin	Winy	Yuan Yin
LIN	Y.L.	ALLIX
LIN	YIMIN.	
LINDNER	NADJA	MARIA
LINDSTROM	LARS	M.
LINGHORN	ERIKA	BRONWYN
LIPPINCOTT	ANJA.	
LISKA	MANFRED	R.
LIU	ANGELINA	Y.
LIU	CHANG-CHU.	
LIU	DE	JIN
LIU	MING-HSING.	
Liu	Samuel	Muhsuan
LIU	TIANWEN.	
LIVINGSTONE	DANIELA.	
LIVIUS	RONALD.	
LO	KWOK	CHUEN STEPHEN
LOCHERY	EMMA	CHARLOTTE
LODEWIJK-HAKKER	SANDRA	LOUISE
LOGALBO	AMY	ELIZABETH
LOGIE	SUSAN	P.
LOHR	BERTRAM.	
LOHREY	YUKA	M.
LOOI	REUBEN	WEN YI
LORCH	JOSHUA	MORDECHAI
LOSEV	DOLLY.	
LOTTERER	ALEXANDER.	
LOU	LIAN	HWEE
LOUAHEMMSABAH	NASRUDDINE.	
LOVE ZEJDL	BRENDA	BILLINGS
LOVERING	GAIL.	
LOVERING	ROBERT.	
Low	Celestee	Wan Xin
LOZACHMEUR	DIDIER	RENE
LU	JUWEI.	
LU	WEIMING.	
LUBBOCK	JULIUS	ALAN
LUCAS	ROSALIE	ELAINE
LUCAS	WINSTON.	
LUCKE	ANDREA	SUZANNE
LUDER	PHILIPP	RETO
LUIJK	AUTUMN	VICTORIA SANNIE-LISA
LUNDBERG	SOPHIA.	
LUO	FUYUE.	
LUSCOMBE	JANE.	
LUTES	MARTIN	FRANCIS
LYBY	KNUT.	
LYMAN	MICHEL	PATRICK
LYNCH	Mindy	Suzanne
MA	YUNG	CHEN LU
MACARTHUR	FAITH	ANGELA
MACAULAY	BRUCE	H.
MACAULAY	FANE	ELIZABETH
MACAULAY	JOCELYN	E.
MacDonald	Frank	Alan
MACDONALD	JOAN	S.
MACDONALD	MARCUS	CLIVE
MacDONALD	ROSEMARY	DARLINGTON
MACLEAN	IAN	LOWRY COLE
MADER	ALEX	EMANUEL

Last name	First name	Middle name/initials
MADURO	MICHAEL	JOHN
MAEDA	TEINA.	
MAEKAWA	YAICHIRO.	
Magee	Pamela	Ann
MAGNANI	ENRICO.	
MAHEUX	ANNE	FRANCES
MAHONY	JILL	LOUISE
MAING	MINJUNG.	
MAJEAU-BETTEZ	MARIE-LOU.	
MALLACE	DEBORAH	JANE
MALLADI	RAGHAVENDRA.	
MALTBY	GEORGE	CHRISTOPHER WILLIAM
MALTBY	RACHEL	ELIZABETH
MANGALGIRI	VICKRAM.	
MANKTELOW	JAMES	DAVID RICHARD
MANKTELOW	LUCY	EVELYN
MANNING	ERIK	GEOFFREY CYRILLE
MANZKE	ROBERT.	
MAPSTONE	CATHERINE	EMMA
MARAVAL	LAURENCE	I.
MARHOLEV	BOJKO	F.
MARINUSSEN	LISBETH	ELLEN
MARKERINK	ROBERT	GERHARD
MARKS De CHABRIS	LIONEL.	
MARKS-MARAN	DIANE	JOY
MARQUEZ	EILEEN	MARIE
MARRIS	MARTIN	D.
MARSHALL	ESTHER	MONIQUE
MARSHALL	HENRY.	
MARSHALL	KRISTIN.	
MARSHALL	LEONIE.	
MARTEL	PAOLO	ROBERTO MERCADO
MARTIN	JOANNA	ELIZABETH
Martin	Lauren	Susan
MARTIN	YVES	GASTON
MARTIN-BUSUTIL	RAMON.	
MASON	MARJORIE.	
MASON	PHILIP	J.
MASSAGUE	GERARD.	
MASSIER-HOONHOUT	NICOLE.	
MASTROPRIMIANO	DAMIEN	M.
MATHER	DAVID	ANDREW
MATHES	BETTINA	E.
MATSUDA	NAOKO.	
MATSUDA	REIKO.	
MATSUDA	YOSHIHISA.	
MATSUI	AKIRA.	
MATSUI	KAYOKO.	
MATSUI	SEIICHI.	
MATSUI	SHIGERU.	
MATSUO	MASAYUKI.	
MATTEINI	ARTHUR.	
MATTELAER	PIETER	A.
MATTHEWS, JR	ROBERT	BOWMAN
MATTHIESEN	RUTH.	
MATTICE	MAKIKO.	
MATTIE	JOHANNE	LIETTE
MATTSON	JAMES	ROBERT
MAUBOURGUET	VIRGINIE	FLORENCE MARIE
MAXRATH	LARS-OLAF	MICHAEL
MAY	ANDREW.	
MC Sorley	Wayne	Patrick
MCCABE	BRIAN.	
MCCALL	STEPHANIE	MARIA
McCullogh	Craig.	
MCDERMOTT	CATHERINE.	
MCDONALD	THOMAS	ALEXANDER
MCDOUGALL	TERHI.	
MCEACHERN	BEVERLY.	
MCGILL	BEVERLY	J.
MCGILL	JESSIE.	
MCGILLVREY	IAN	MICHAEL
MCGREGOR	LINDA	DARLENE
MCGUIGAN	MARY	L.

Last name	First name	Middle name/initials
MCGUIGAN	MITCHELL	W.
MCINTOSH	RYOKO.	
MCINTOSH	STUART	J.
MCKAY	ANDREW	JAMES
MCKAY	BARBARA	J.
MCKELLAR	BRUCE	D.
McKenny	Patricia	Rae
MCKENZIE	CAROL	A.
MCKENZIE	WILLIAM	G.
MCLEOD	DARLENE	G.
MCPHERSON	JOHN	R.
McQUAID	KELSEY	PAULINE
MCRAE	SHAUN	DAVID
MCSORLEY	WAYNE	PATRICK
MEES	ALISTAIR.	
MEES	PAMELA.	
MEESSEN	BRUNO.	
MEHROTRA	PRAVEEN.	
MEIER	NATHANAEL	ELIAS
MEIKLE	GRACE	KAY
MEINCKE	FRANK.	
MELLOR	FARRIS	SCOTT
Melvin	Reine	Marie
MENDEZ	GLORIA	P.
MENEZES	DOMINGAS	T.
MENGES	JUDITH	ANN
MENON	RAGHUNANDAN	S.
MERCIER	ELISE.	
MESCHELOFF	ELI	YEHUDA
METAXES	VICTORIA	ELIZABETH
METCHEV	STANIMIR.	
METELIK	IRENE	ARUNATI
MEYER	FELIX.	
MEYER	MICHAEL	THOMAS
Meyrat-Schwoerer	Elizabeth	Katherine
MIAU	TSONG-TSONG.	
MICKLER	ELAINE.	
MIDDENDORP	RUDOLF	F.
MIDMER	ALICE	ELIZABETH
MIGNOT	YVELINE	ROGINE
MIHOK	RADOSLAV.	
Mikee	Luka.	
Mikucki	Edward	Joseph
MILLER	JANET	KAY
MILLIKEN	EMMA	LOUISE
MILNER	MARK	SIMON
MINASSIAN	JACQUELINE	GRACE GABRIELLE CARDINALE
MINEMATSU	SUMIKO.	
minematsu	toshiyuki.	
MINNEY-MCDOUGALL	FRANCES	L.
MINNIS	ALASTAIR	J.
MINNIS	FLORENCE.	
MINTON-BEDDOES	SUSAN.	
MIRANDA	NICK	SANDRO
MIRO	ADRIAN.	
MIRON	DAVID	J.
MIRON	LAURA	E.
MIRRIONE	ALESSANDRO.	
MISAWA	YUKIKO.	
MISLIN	JONAS	RENE
MITCHELL	PETER	JAMES
MITCHELL	VIOLAINE	SUSAN
MITSUISHI	AKIO.	
MITTAL	ANURAG.	
MIURA	ISAMU.	
MIYAZAKI	HIROSHI.	
MIZRAHI-MELLER	EMILY	SARAH
MIZUTANI	AYANA	STEPHANIE
MIZUTANI	SAYURI.	
MODLER	CHANTAL	MICHELLE
Moeller	Pernille Joy	Rosenstand
MOELLER-TELICSAK	SHAULA	ELANOR
MOGHADASSI	RAMYAR.	
MOHNING	TYLER	ALAN

Last name	First name	Middle name/initials
MOK	Young	Mee
MOLESKI	TIMOTHY	L.
MOLLET	BERTRAND.	
MOLLET	JULIE	B.
MOLLOHAN	TODD	JAMES
Molloy	Scott	Lindon
MOLNER	NICOLLE	ELIZABETH
MOLONEY	EMILY	CLARE
MONKHOUSE	PETER.	
MONTGOMERY	TONY	KEVIN
MOORE	DAVID	KENNETH
MOORE	GRAHAM	J.
MOORE	ROBERT.	
MOORHOUSE	JOHN	PATRICK
MOORHOUSE	JULIA	HALLE
MORAD	OSMAN	T.
MORGAN	ANTHONY.	
MORI	MIYUKI.	
MORITA	KOICHIRO.	
MORITA	MACHIKO.	
MORLINI	VINCENZO.	
MORRIS	ERICA	R.
Morris	Jacqueline	Clara
MORRISON	KATHRYN	CECILE
Morse	Bradford	Wilmot
MORTON	HOLLY.	
MORVAN-STREETER	EMILIE.	
MORY	LUCIE-FAYE	MAITE JEANNE
Mosko	Cheyenne	Sheena
MUELLER	ANDRE.	
MUELLER	MAYA	ALENA
MUELLER	MICHELE	GABRIELE
MUELLER	ROMY	FAYE
MULDER	IRIS	WILHELMINA
MULLER	CHARLES.	
MULLEY	RANDOLPH	EDLAND
MULRONEY LAPHAM	CAROLINA	ANNE
MUNCH-HANSEN	BENEDICTE.	
MUNN	FRANCES	ELIZABETH SHAPIRO
MURAKAMI	EIKO.	
MURAKAMI	KAZUTAKA.	
MURALIDHAR	SRIKANTAIAH.	
MURAOKA	ISAO.	
MURAOKA	TOMOKO.	
MURDEN	GAIL	GRINNELL
MURPHY	NATALIE	ELIZABETH
MURRAY	ANNETTE	LOUISE
MURRAY	DANA	SCOTT
MURRAY	HELEN.	
MURRAY	JACK	ANTHONY
MUSTERS	REINIER	MICHAEL
MUTZKE	ANNE-CATHERINE.	
NABI	KAUSAR.	
Nadeau	Richard	Walter
NAEF-GRAF	REBEKKA	LILIANE
NAGAHISA	AKEMI.	
NAGAHISA	SHINZO.	
NAGAMINE	KENTARO.	
NAGAMINE	SHOTARO.	
NAGARAJAN	R..	
NAGASE	YOKO.	
NAGATA	SATOSHI.	
NAHAS	MAY-GRACE	MARIE
NAKAJIMA	HIROKI.	
NAKAJIMA	JUNKO.	
Nakano	Ryo.	
NAKAYASU	SAWAKO.	
Nam	Nam	Young Park
NANAVATI	ANUJ.	
NASH	JOAN	I.
NASSOS	ANNELISE	KATHY
NATH	MEENAKSHI.	
Navarria	Jude	Thomas Kleila
NAYAR	ANJEETA	RAGHU

Last name	First name	Middle name/initials
NEAGU	CLAUDIA.	
NEAR	KAORI	KOSHINO
NEGRETTI	RAFFAELLA.	
NELSON	KARLA	ELLEN
NEMO MALERBRA	MARIE-AUDE	JEANNE
NEMOTO	KENTARO.	
NESBIT	DAVID.	
NESTOR	SARA	E.
NEUMAN	MICHAEL	EDWIN
NEUMAN	SHIRLEY	ANN
Newbatt	Victoria	Marie
NEWHOUSE	NANCY	JOANNE
NGUYEN	DAVID	LAURENT VI-HUNG
NI	JINLEI.	
NICE	BRIAN	E.
NICHOLS	VALERIE	JOY
Nickell	Rebecca	Joaquina Arango
NICODEMUS	ANNE	HERRICK
NICOLAS	LUCILLE	SARAH
Niem	Grace.	
Niem	Lena.	
NIKKEL	CELESTE	C.
NIKKEL	RONALD	W.
NIKOLOV-MEYER	CHRISTINE	ELIZABETH
NISHAR	DEVANGI.	
NISHIDA	YOSHIKAZU.	
NISHIKAWA	KUNIHIKO.	
NISHIKAWA	SHIHOKO.	
NITSCHE	VALERIA	SUSANN
NODA	HIROYUKI	KAZUMA
NOFF	AYELET	KEREN
NOIRAT	DAVID	BRIAN
NOLAN	JANE	C.
NORMAN	JAMES	A.
Nottingham	James	Webster
NOVOVESKA	LUCIE.	
NUMATA	AKIRA.	
NUMATA	KUNIKO.	
NUNES	LAURA.	
NUNES	QUINTINO	M.
OBRIST	JURG.	
O'DONNELL	JACQUELINE.	
O'DONNELL	SHARON	DENISE
OEST	OLE	NYBYE
OGRYZLO	MICHAEL	STEPHEN
OGURA	MINEKO.	
OH	TAEKYUN.	
OHARA	KOJI.	
OHGA	MASAATSU.	
OHLER	UWE.	
OIEN	NANCY	C.
OKAMURA	TAKASHI.	
OKUNO	HIROKO.	
OKUNO	YASUO.	
OLIVER	ANTONY	PETER
OLIVER	JOHN.	
OLIVER	PAULINE.	
O'MAHONY	CATHAL.	
O'MALLEY	BRIAN.	
OMURA	NORIYUKI.	
OMURA	RUKA.	
OMURA	TAKESHI.	
ONG	CHIN-KAI.	
ONO	MIEKO.	
ONO	NORIKO.	
OOSTERHOUT	ROLAND	M.
OOSTERVEER	PETRUS	W.
OP DEN CAMP	LEONARDUS	ALOYSIOUS MARIA
ORFALY	ROLAND.	
ORHAN	HALIL	M.
ORTIZ	ALONSO.	
OSORIO	BRYAN	JUSTIN
O'SULLIVAN	MARY	A.
OTEVREL OTEVEREL	GABRIEL.	

Last name	First name	Middle name/initials
OTO	ARATA.	
OTTO	PETER	FRANK
OUYANG	HAIYAN	H.
OXFORD	DAVID	CHARLES GUY
OZSAHIN	ESAT	MAHMUT
OZUPEK	CANAN.	
OZUPEK	GOKMEN.	
PAGNUCCO	DAMIANA.	
PAGURA	JINA	ELAINE
PALIDIS	ANASTASIOS.	
PALIDIS	SUSAN	E.
PALISCA	ANDREA	GIUSEPPE
PALM	NICOLAI	MAXIMILIAN
PALMER	SHAYNE.	
PALTZER	ROLF	ALLAN
PAN	PENGKAI.	
PANESAR	SONIA	K.
PANGBORN	ANTHONY	ROBERT
PARK	DONGUK.	
PARK	MI	JIN
PARK	NA	HYUN
PARK	SANG	M.
PARKER	MORGAN	A.
Parker	Nancy	Helen
PAS	DARAT.	
PASCHOALINI	FRANK	E.
PATEL	RAVI.	
PATEL	RHISHI.	
PATEL	RIDDHI.	
PATTEN	SHEENA	L.
PATTERSON	KIRK	RUSSELL
PAWLEY	JAMES	BINFIELD
PEASE	THOMAS	G.
PECOVER	LUCY.	
PECOVER	WILLIAM	G.
PEDERSON	LONE	MORCH
PEE	GIM	NEE
PEER	MORDECHAI	MATT
PEETZ-REZVANI	SABINE	C.
PEH	LI-SHIUAN.	
PEHRSSON	NICOLE	MARIE
PEIJS	JASPER	A.
PEIRCE	JOHN	WENTWORTH
PEKONEN	MIKKO	J.
PEMBERTON	SAM	W.D.
PEMBERTON	SUSAN	V.
PENG	JIE.	
PENINON	CAMILLE	MARIE
PENNYCOOK	STEPHEN	J.
PEPPAS	BESSIE.	
PEPPER	JASON	MEREDITH
PEREIRA	JOAOPAULO	R.
PEREZ	GARRETT	FOSTER
PEREZ	MARIA	G ACUNA
PERLE	JACQUELINE	S.
PERO	VALENTINA.	
PERONNET	BENJAMIN	THOMAS
PERRIN	JESSICA	LILAS MARIE
PERVILHAC	CHARLOTTE	MARIE
PETCH	CHARLES	CHANDLER
PETEL	MIRI	GALIT
PETER	KAREN	J.
PETER	RICHARD.	
PETERS	ELAINE	MARSHA
PETERS	GORDON	H.
PETIT	EMMANUEL	J.
PFAU	SEBASTIAN	HENRI
PFAU-DILLON	ERIN	STAFFORD
PFISTER	ALEXANDER	GREGORY
PFISTER	NICOLE	ISABELLE
PFISTER	STEFAN.	
PFLUGER	JAMES	PAUL
PFUHL	HELEN	ANNE
PHALON	ASAKO.	

Last name	First name	Middle name/initials
PHILLIPS	MARIE	L.
PHILLIPS	MEREDITH	SARAH
Picci	Marco.	
PICHER	MARYSE.	
PICHON-VARIN	GERARD.	
PICKETT-HEAPS	AARON	JACK
PIERETTI	NIKI.	
PIKE	BARRY	LEE
PINHO	RODRIGO	S.
PINHO	VANESSA	O.
PINTO	SARA	ALEXANDRA GASPAR PEREIRA
PIPIEN	ELERI.	
PIQUET JR	NELSON	A.
PIRRE	ANNAMARIA	SALBATRICE
PLASCENCIA	JUAN	J.
PLETZER	ALEXANDER.	
PLETZER	TAMARA	O.
POIRRIER-HAMON	ANNE	MADELEINE
POKHREL	JENNIFER	ILENE
POLACK	FERNANDO	P.
POLDERMAN	CYNTHIA	ANN
POLDERMAN	MONIQUE.	
PONTON	APRIL	SKY DUNLOP
POON	DEREK	W.
POPOV-DIHOVICNI	SIMONIDA.	
POPOVIC	MATEJA.	
POSTIF	SOPHIE	J.
POWELL	GERARD	ARMOND
POWELL-PORTEOUS	SHEILA.	
PREDKI	GARY.	
PREDKI	JOANNE.	
PREISS	LAURA.	
PRESTWICH	CAMILLA	ALICE
PRETTEJOHN	ELIZABETH	FRANCESCA
PRICE	JULIE.	
PRICKETT	BARBARA	M.
PRIEST	GARETH	R.
PRIEST	RUTH.	
PRIOR	KATANYA	CAROLYN KOLSTOE
PRIOR	STEPHEN	KENNETH
PROBST	JULIE.	
PROVOOST	GRETA	L.
PSUTKA	JOHN	F.
PUNCHARD	JANE.	
PUNCHARD	WILLIAM	F.
PUTSCH	KATARINA.	
Qassab	Roua	Al
QIDWAI	HAYAT.	
QIDWAI	TAYYABA.	
QIN	XIUYUN.	
RABBI	MASSIMILIANO.	
RADEMACHER	DANIELA	SUZANNE
RADERMACHER	WILHELM	A.
RADKE	JAMES	M.
RADUL	JAMES	ROBERT
RAFFELSBERGER	JAMES	GUENTHER
RAINER	RICHARD.	
RAJAMAA	ELINA.	
RAJAMAA	MARKO	M.
RAMOS-CURRAH	GABRIEL.	
RAMOS-CURRAH	SEBASTIAN.	
RAMPTON	SHANNON	ELIZABETH
RAMSAY	LYNDA	ANN
RAMSHAW	MARTIN.	
RAQUIDEL	DANIELLE	COLETTE
Rattrie	Andrew	John
RAYANI	ZAHRA.	
RAYNOR	CAITLIN	HUGHES
RAZ	SAHAR.	
READ	CHRISTINE	R.
READ	DEREK	R.
REAY	ROBERT	GILBERT
REDCLIFFE	PATRICIA.	
REDCLIFFE	RAYMOND.	

Last name	First name	Middle name/initials
REDD	ANNA	M.
REDDEN	SOPHIE	KATHLEEN
Reddy	Amar.	
REDLINGER-LIBOLT	CRISTINA.	
REGAL	PHILIP	JOE
REICH	MARSHA	LYNN
Reid	Anjyu	Carleigh
REINFRIED	HERBERT.	
REINFRIED-WETTSTEIN	KLARA.	
REINHART	KERRY	WADE
REIS	RICARDO.	
REMEDIOS	SALLY.	
RENNIE	DOUGLAS.	
RENNIE	JANET.	
RENTOWL	MELANIE.	
RENTZIOS	AMELIA	V.
REY	VINCENT	SEBASTIEN
REYES	DANIELE	ROBERT
RHEAULT	JULIETTE	M.
RHEAULT	REAL	J.
RHODES	JULIAN	DAVID
Richards	Rebecca	Ann
RICHARDS	STEVEN	WILLIAM JOHN
RICHARDSON	J JOHN	STEVEN
RIEDEL-FISHER	NELL	BEARD
RIEDERER	PATRICK	ANDREA
RINGWALD	BIANCA.	
RISTAINO	JOHN	LUCIAN
RITTER	ELIZABETH	CHARLOTTE
RITZENHOEFER	JONAS.	
RIZZO	GIUSEPPE.	
RIZZO	MARIA	ANDREA
Roach	Alsion.	
ROBERT	MARIE-HELENE	BOURGOIGNIE
ROBERT	MIGUEL	F.
Roberts	Jeremy	John
ROBERTSON	BRIAN	W.
ROBINSON	KEVIN.	
ROBLES	IVAN	ROGELIO
ROCH	WALTER	FRANZ ALFRED
ROCKINGHAM	EDITH	J.
ROCKINGHAM	JOHN	E.
RODGERS	LINDA.	
RODRIGUEZ	JUAN	JESUS
RODRIGUEZ	MARIA	R.
ROEHM	SANDRA	DANIELA
ROGERS	VALERIE	J.
ROH-DECLERCQ	CHANTAL	SUZANNE
ROIZEN	JACQUES.	
ROLL	JOANNA.	
RONDEAU	JOSEE.	
RONNHOLM	THOMAS.	
ROOD	KENNETH	M.
ROSAGER	KRISTINA.	
ROSENBERG	BEVERLY.	
ROSS	CAROLE	A.
ROSS	DAVID	L.
ROSS	GILBERT.	
ROSS	GLADYS	L.
ROSS	MANON.	
ROSS	MARTHA.	
ROSSBACH	SVEN.	
ROSSEN	ERIK	GRAY
ROSSI	EMMA	J.
ROSSI	GREGORY	P.
ROSZELL	LAURIE	JEAN
ROTH	TATUM	CHANEL
ROTHWALL	JAMES	GLENN
ROUGH	ALASTAIR	D.
ROUGH	CATRINA.	
ROUSSELLE	ALEXANDRA	VERONIQUE
ROWLAND	URSULA.	
ROWLANDS	AARON	J.
RUGOLO	NATASCHA	NOVELLA

Last name	First name	Middle name/initials
RUSSELL	DAVID	JOHN
RUTHMANN	SABINE.	
RUTLAND	GRACE	CHARLOTTE
RYBAK	MICHAEL.	
RYFF	JULIA.	
RYMON	GAL.	
RYMON	RON.	
RYMON	TALIA.	
SABATE	BEATRICE.	
SADEGHI	ALI	MIR MOHAMMAD
SADEGHI	CHRISTINE	DIANE LEA
SADEGHI	HASSAN	ROGER
SADTLER	DAVID	ROTH
SAGIE-COHEN	AINAT.	
SAIKA	NANAKO.	
SAIKA	ROYOSUKE.	
SAITO	MAKOTO.	
Sakuri	Katsumasa	John
SALERNO	ALEXANDRA	MARIE
SALERNO	BETTY	ANN
SALIBA	JOSEPH.	
SALVI	KEVIN	MARC
Salviati	Maria	Olivia
SALVINI-PLAWEN	ALENA.	
SAMOILA-KOVACEVIC	DANIELA.	
SAMPSON	SOPHIA	ELIZABETH
SAMUELS	THEIPHILUS	L.
SANDBERG	RICHARD	A.
SANDFORD	GILLIAN	HANNAH
SANDILAND	ALLEN	E.
SANDILAND	GAIL	B.
SANDSTROM	INGELA	Y.
SANDSTROM	MAGNUS.	
SANGER	JACQUELINE.	
SANGER	SYLVIA	A.
SANTANDER DE FOERSTER	MONICA	C.
SARATZ	ANNIETTA.	
SASAKI	NORIKO.	
SASAKI	SAKAE.	
SASSON	JOSEPH	YOSSI
SATO	NAOYA.	
SATO	NORIKO.	
SAUNDERS	MARK	GEOFFREY
SAUTER	PETER	CHARLES
SAUTY	STEPHANIE	ANN
SAUVE	AARON.	
SAVAGE	REBECCA	CHRISTINE
SAYED	LEILA.	
Scaife	Jeanne	Elizabeth
SCHEIDEGGER	ANDREAS.	
SCHEWE	LES.	
SCHIAVO	ALEXANDRE	A.
SCHINDLER	ANGELIKA	URSULA
SCHLEYER	DANIEL.	
SCHLICK	SIGRUN	D.
SCHLOSSER	FELIX	JOHANNES VINCENTIUS
SCHLUMPF	NIKLAUS	THEODOR
SCHMELING	MIRIAM.	
SCHMID	ALEXANDRA.	
SCHMIDBERGER	CHRISTOPH.	
SCHMIDT	EIKE	D.
SCHMITZ	LUCAS-JOEL.	
SCHNIDER	CHRISTIAN	ALAN
SCHOOF	MARK	S.
SCHORDERET	JACQUELINE	RENEE
SCHRIVER JR	PAUL	JOHN
SCHUBERT	ANGELIKA.	
SCHULTZ	THOMAS.	
SCHULTZ-ILLEK	MANITA	ANGELIKA
SCHWARTZ	JAMES.	
SCHWIND	ROBERT	WOLFGANG
SCOFIELD	GRAHAM.	
SCOTT	DAVID	R.
SCOTT	LAURA-LEE.	

Last name	First name	Middle name/initials
SCOTT-BEVERIDGE	CHARLOTTE	ELIZABETH
SCOTT-EDWARDS	ROBERT	EDMOND
SCUTCHINGS	SUSAN	L.
SEGER	Tobias	Max
SEIFERT	HAROLD	JAMES
SEMPLINER	LORRAINE	A.
Senkpiel	Elaine	Marie
SEOK	HEE	YOUNG
SERCARZ	IRIT.	
SERRANO	ANA	JOSEFA
SETIADARMA	RATNASISKA.	
SETUBAL	JOAO	CARLOS
SEUCAN	STEFAN.	
SEWELL	JESSICA.	
SHAH	ANJANA	P.
SHAH	CHANDRIKA.	
SHAH	DEEPA.	
SHAH	HIMANI.	
SHAH	SHANTILAL.	
Shalam	Emanuel.	
Shalit	Doron	Mordechai
SHARMA	NEELADEVI	SANJAY
SHARMA	SANJAY.	
SHARP	JANICE	J.
SHARPE	ELIZABETH	VERONIKA
SHASHOUA	DORIS	ALBERTA
SHEEDY	MAURAH	LISA
SHEEHAN	MARGUERITE	RUTH MARIE
SHEEHAN	NIALL.	
SHELDRAKE	ROGER	F.
SHELLITO	MICHAEL	JAMES
SHELTON	SUSANNA.	
SHEPPARD	MARTHA	L.
SHIBUTANI	NAOMI.	
SHIBUTANI	SHINYA.	
Shields	Candice	Patricia
SHIELDS	DINAH	JANE
SHIELDS	JOHN.	
SHIM	JAE	DOO
SHIMA	CHIKAKO.	
Shimada	Mitsuru.	
SHIMOJO	MASASHI.	
SHIN	Paul	Junseo
SHIN	SEUNG	KOO
SHINGNE	GEETA.	
SHINOHARA	SATOMI.	
SHINOHARA	SHIGERU.	
SHITABORI	KIMIKO.	
SHLIMON	KATRINE.	
SHRIVE	ANDREA	CLAIRE
Shu	Tao-Tze.	
SIAH	RYAN	KWEI-PING
SIDER	JUDY	N.
SIDHU	JAGMIT	K.
SIEGEL	MICHIYO.	
SIEREVELD	FRANK.	
SILKSTONE	SUSAN	LESLIE
SILLERY	YOLETTE	M.
SILVA	KATRIONA.	
SILVA	VINICIUS	S.
SIMCOCK	DIANNE	JUDITH
SIMMONS	RHONDA	JANET
SIMONS	JONATHON.	
SIMPSON	DAVID	A.
SIMS	DANIEL	PAUL
SIRCH	ERIKA	L.
SIS-KLUZIK	JEANNE	MARIE
SIVANADIYAN	NIRANTHARI.	
SKEEN	AMANDA	M.
SMART	JOHN.	
SMIT	MARTINA.	
SMITH	ALISON	JILL SIMONE
SMITH	CLINTON	WARREN
SMITH	IAN	ROGER

Last name	First name	Middle name/initials
SMITH	JEAN	E.
SMITH	PIERS	PATRICK KINGSTON
SMITH	RHODA	J.
SMITH	WILLIAM	STEWART
SMYTH	FIONA	A.
SNADDON	JUDITH	E.
SOCASH	RYAN	ANTHONY
SODERQVIST	LOVISA	M.
SOLES	TRINA	MARGARET LARSEN
Solod	Lynne	Ann
SOMEK	ALEXANDER.	
SOMEK	DANIELE	SABINE
SOMEYA	MASATO.	
SOMIYA	HIDEKAZU.	
SONDROS	Talis	Arnis
Song	James.	
SORENSEN	MORTEN.	
SOROTZKIN	ZEEV	MEIR
SOSSIDIS	NICHOLAS	J.
SPANNER	ALAN	R.
SPEARS	JEFFREY	T.
SPECTOR	KYOKO.	
SPENCER	JAN BRYON	C.
SPENCER	MARK	WARREN
SPENCER	MIRIAM.	
SPEYER	PETER	C.
SPIEGEL	TRACY	LEE
SPIERS	STUART	W.
SPINELLI	ULRICA.	
SPOTORNO	ALESSANDRO	ANGELO
STAFL	LENKA	JANA
STAHL	HJOERDIS	ULRIKE
STECH	ADA	JOANNA
STECK SCHEIDEGGER	GISELLA.	
STEENHAUT	KEBIN	CHRISTOPHER
STEIN	DAVID	HARRY
STEIN	DIETER.	
STEINBACH	MICHAEL.	
STEINBERG	FREDRIC	MURRY
STEVENSON	ALASTAIR	L.
STEVENSON	FELIPE.	
STEVENSON	JHORDAN	ARIUS
STEWART-TAUCHE	REBECCA	QUINCY
Stimson	John	Adrian
Stobbe	Daniel	John
STOBY	LARA	AGAR
STOHR	JOHANNES	JACQUES MARTIN
STOLL-DUGAN	BETTINA	M.
STONE	CLAIRE	KIMBERELY
STOTT	SARAH	ELIZABETH
STOVER	LINA	JOSEPHINE
STRASSER	SANDRA	ELISABETH
STRATTON	DONALDA.	
STRAUB	KATHRYN	ELIZABETH
STRAUSS	CHIKAKO.	
STRESAU	RICHARD	WHITNEY
STUCKI	TOBIAS	MARTIN
STUPARYK	MELANIE	E.
STURT	HILARY	NAPIER
Su	Erin.	
SUDITA	I.	MADE
SUDMANT	SANDRA	RUTH
SUGAWARA	YURIKO.	
SULLIVAN	EDMUND	VINCENT
SUMI	KOICHI.	
SUN	HAO	H.S.
SUN	ZHIWEI.	
SUNG	ALAN	Y.
Sung	Kennix	Tsu-Wei
SURI	VIVAN.	
SUTER	KYOKO.	
SUZUKI	AKIKO.	
SUZUKI	GEORGE.	
SUZUKI	KAZUMICHI.	

Last name	First name	Middle name/initials
SUZUKI	MAKOTO.	
SUZUKI	NOBUYUKI.	
SUZUKI	SHOKO.	
SUZUKI	TOMOKO.	
SUZUKI	TOSHIO.	
SUZUKI	YUMARO.	
SWAINSON	LESLIE	SHAUN
SWALLOW	CLAIRE.	
SZABO	JASON	L.
SZEREMETA	SEAN.	
TAGAWA	KAZUE.	
TAGAWA	KOKICHI.	
TAGLIANI	ALEXANDRE.	
TAI	SHIH	YAO
TAKAHASHI	MASAHIKO.	
TAKEMOTO	KOH.	
TAKIGAWA	YASUSHI.	
TALAALOUT	ABDELKRIM.	
TAMIAKI	MICHIKO.	
TAMMEN	MARGOT	H.
TAMURA	KAZUAKI.	
TAN	CHER	SIEW
TANAKA	JUNKO.	
TANAKA	KOICHI.	
TANCON	ANGELA	NOELLE
TANDON	MANAS.	
TANG	CHIA	C.
TANIE	HIROSHI.	
TANNER	EVA	JOANNE
TATEISHI	TOMONORI.	
TAYLOR	AIDHAN	TOBIAS
Taylor	Jessica	Anne
TAYLOR	MARILYNN	CHRISTENE
TAYLOR	SUSAN	SCOTT
TEDRICK	CRISTINA	R.
TEELAND	WALTER	FRANKLIN
TENOT BENOIT	CECILE	MARIA SUZANNE
TERADAIRA	TOKUKO.	
TERASAKI	TAKAKO.	
TERASAKI	YASUO.	
TERRY	ELAINE.	
TERRYN	NICHOLAS	ALEXANDER
TESLER	JUDY.	
TESTELIN	CLEMENCE	CLAIRE-CHANTAL MARIE
THAM	MAY YEE	A.
THAWER	FARGN	FERID
THEAN	VOON	YEW
THIBAULT	JACQUES	P.
THIEME	CHRISTIAN.	
THOMAS	BRIAN	SCOTT
THOMPSON	JACK	SAMUEL
THOMPSON	PAUL	R.
THOMPSON	VICKI	J.
THOUVENIN	SUNITA	CHLOE AUDREY
TICZON	IVY	JO. D.
TIMMS	MICHAEL	J.
TIRIAC JR	ION	ALEXANDRU
TJAHAJA	AMIR.	
TONER	ADAM	J.
TONG	KA	M.
TONG	PAULINE	PO LAN
TONKS	RICHILDIS	MARY HARRISON
TONSTAD	FREDRIC	BENJAMIN
TOOP	MURIEL	JEAN
Tosi	Paola	Maria
TOSUN	TOLGA.	
TOUCHE	PETER.	
Townsend	Judith	Una
TRAMBLE	RASHUNDA	RENEE
TRAN	THE-MINH.	
TRAVERSI	FERDINANDO	PIETRO
Trgovac	Katherine	Lesile
TRIM	KERRYN	C.
TRIM	LINDA	G.

Last name	First name	Middle name/initials
TRINH	XUAN	MINH
TROPPER	YEHIEL	MOSHE
TRUYENS	EELKO.	
Tsai	Christopher	Cheng-Ru
TSAI	KUAN-SHI.	
TSAI	LING-YEN.	
TSENG	JOSHUA	SHI-HAO
TSUZAKI	HITOMI.	
TSUZAKI	KENJI.	
TU	FENGFENG.	
TUELLER-MUELLER	CLAUDIA	CHARLOTTE
TUINMAN	ROB.	
TURCOTTE	MARIE.	
TURLAPOV	ANDREY	V.
TURNBULL	STUART	M.
TYACKE	JAMES	A
UEFFENGER	FRIEDRICH.	
UEFFINGER	MONIKA	E.
UEHARA	HIROSHI.	
URSINY	PAVEL.	
USON	JUAN	M.
VALDES-SCOTT	HUGH	DAVID ROBERT
VALENTA	MARCUS	ANTONIO FERBER
VAN DE FLIER	RUTH	M.
VAN DE STEENE	JET	CLAUDINE
VAN DER KNIJFF	SUZANNE.	
VAN DER SCHEER	JOKE.	
VAN DER VEEN	INA.	
VAN DER VEGT	JEANNETTE	M.
VAN NIEUWKERK	JAN	ADRIAAN
VAN ROMPAY	LUCAS	R.
VAN SANTEN	GERT.	
VAN SANTEN	RAYMONDE.	
VAN VELDHOVEN	ZAHRA	CAROLINE
Vanthielen	Barbara	Lily
Varan	Aiden	Kennedy
VARDAKIS	DEBORAH	LABRINA
VARGA	LASZLO.	
VARGHESE	DEEPA.	
Varidel	Debbie	Jean
VASSALINI	MONICA.	
VELIOTIS	PAULETTE.	
VENDITTI	SAMUEL	LI
VENTORUZZO	MARCO.	
VENTURINI	MONICA.	
VERDEAUX	JEAN-JACQUES.	
VERSPIEREN	CHRISTINA	ALEXANDRA
VETTERLI	OLIVER.	
VETTOR	ALESSANDRO.	
VIERSET	SEVERINE	MARIE
Vieser	Linley	Conrath
VIG	JACQUELINE	A.
VIGUS	BRIAN.	
VIGUS	GERALDINE	G.
VIGUS	MICHAEL	B.
VILLALOBOS OROZCO	SANDRA	LORENA
VITORINO	MARIA	ANA
Vlemmings	Nina	Cecilia
VOADEN	ROSALYNN.	
VODDEN	JAMES.	
VOGEL	TOMOKO.	
VON BUCHWALDT	BENNO	KARL ERIC
VON BUEDINGEN	HANS	CHRISTIAN
VON ENGELHARDT	ALEXANDER	KRONSTANTIN FRANZ BARON
VON SALIS-BILFINGER	HEIDI	ELISABETH
VON SALVINI PLAWEN	ALEXANDRA.	
WACKERNAGEL	PATRICIA	RUTH
WAGNER	LAILA.	
WAGNER	NANCY	LYNN
WAGNER	NELSON	GAINS
WAGNER	SUSANNE	RUTH
WAIDZUNAS	DANIEL	KONSTANTIN-GUSTAV
WAKEFIELD	BRYCE	A.
WALACAVAGE	CRAIG	KENNETH

Last name	First name	Middle name/initials
WALKER	COURTNEY	J.
WALKER	FRITH	JEAN
WALKER	LYNN	CARLISLE
WALLACE	JAMES	RICHARD
WALLACE	SARAH	ELIZABETH
WALLNER	LYDIA	MATHILDE
WALLRAFF	ALEXANDER	JOSEF
WALT	LESLIE	ANN
WALT	SCOTT	RAYMOND
Walther	John	Karl
WANG	HONGYAN.	
WANG	HSIAO	WU
WANG	JINCHU.	
WANG	Karin.	
WANG	LEI.	
WANG	XIUXIAN.	
WANTMAN	ADAM	CRAIG
WARD	GREVILLE	V.
WARD	TERRY.	
WARKENTIN	JOHN	DONALD
WARMBRUNN	SANDRA.	
WARREN	CHRISTOPHER.	
WASER	SABRINA	REGULA
WATT	JAMES	HARRINGTON
WATTERS	CLINT	ANDREW
WAYMAN	KATRINA	LOUISE
WEBB	ROLAND	HUMPHREYS
WEBER	MARA	J.
WEDER	ANDREA	C.
WEDER	MARKUS	C.
WEIBEL	ADAM	ROBERT FRIEDRICH
WEIBEL	LYNN	THOMPSON
WEINRAUCH	JOHN	RICHARD
WEISS	BARBARA	IILYA
WELFARE	LESLIE.	
WELFARE	RICHARD.	
WELLER JONKERS	SHARON	RUTH
WELLS	KRISTA	DIANE
WEN	HAO.	
Wen	Jing-Kai.	
WENK	MARKUS	RENE
WENKER	CHRISTIAN	JOHN
WENNER	LESLIE	BARBARA
WENTZEL	RICHARD	GUY
WEYENETH	KARL	EMMANUEL
WHALEN	PETER	LYNN
WHAN	KEVIN	W.
WHITE	SIMON	LUKE
WHITEFOORD	DANIEL	CALEB JAMES
WHITFIELD	CHARLES	P.
WHITFIELD	CHRISTOPHER	JOSEPH
WHITTON	LAURA	JANE
WHITTUM	KINUKO	S.
WICKWARE	SHOKO.	
WIDMER	HANS	PETER
WIECKOWSKI	VOYTEK.	
WIENER-BLOTNER	DAVIR	AMITAI
WIESS	JORDAN	FRED
WILLEFERT	AMY	LAURE
WILLIAMS	ILSE.	
WILLIAMS	LUKE	ALISTAIR
WILLIAMS	ZOE	HANA TEBOHO
WILMOT	EVELYN	GAYLE
WILSON	KATHARINA	ANNA
WIMMERS	SARA	ELIZABETH
WINISTOERFER	MARTIN.	
WINISTOERFER	PATRICIA.	
WINSBORROW	ERIC.	
WINSCHIERS	OLIVER	H.
WISK	ANGIE	L.
WITKOS	KATARZYNA	MARIA
WOLBERGER	ILAN.	
WOLF	ILEANA	ANN
WOLF	JEANNIE	CAROL

Last name	First name	Middle name/initials
WOLFE	ANTOINETTE	HELENE
Wong	Chin	Yan
WONG	EMILY	Y.
WONG	HANG	F.
WONG	PUI	JAN
WONG	ZACHARY	JIANN TSONG
WOO	BYEONGJIN.	
WOO	EDMOND	M.
WOODY	SHEILA	ROXANNE
WOOLLARD	ADDIE	ERLENE
WORRINGHAM	CHARLES	J.
WORTLEY ALDRIDGE	CLAIRE.	
Wren	Ethan	Peter
WRIGHT	DAVID	SIMON
WU	CHOY	KUAN
WU	CHUNG-HSIEN.	
WU	PONG	TWAN
WU	REBECCA	YUAN
WUERTZ	STEFAN.	
WUEST	VERONIKA.	
WUTTKE	GREGORY	J.
XIAO	YI.	
YABE	HIROYUKI.	
YALA	ABDELHAMID.	
YAM	WAN	HANG CHU
YAMADA	JUNJI.	
YAMADA	TAKASHI.	
YAMADA	YUKARI.	
Yamaguchi	Sean.	
YAMAKAWA	YOSHI.	
YAMAMOTO	YASUHIKO.	
YAMAMOTO	YOSHIHISA.	
YAMANAKA	AKIKO.	
YAN	FANG.	
YAN	HONG.	
YANG	CHIUNG	MING
YANG	CUIHUA.	
YANG	LI	FANG
YANG	MEI-JUNG.	
YANG	MINGJIA.	
YANG	YIMING.	
YARBROUGH	GISELE.	
Yasuda	Sara.	
YASUR	DOR.	
YATES	JILL	ALYSON
YEE	ANDREW	BRYCE
Yellin	Simon	L.
YEO	EUN	JUNG
YEO	JING	YING CHERISH
YEO	WEE-PIN.	
YEOMANS	DAVID	WILLIAM
YI	YOUNGHYUN.	
YOKOYAMA	MASAKAZU.	
YOO	HITOMI.	
YOO	HYUCK.	
YOON	ALEXANDER.	
YOON	CHEONGMI	T.
YOON	DANIEL.	
YOON	JACLYN.	
YOSHIMURA	CHISATO.	
YOT	PATRICK.	
YOU	DONGHYUN.	
YOUNG	CHRISTINA.	
YOUNG	NINA	JANE
YU	ALICE.	
YU	JIANYING.	
YU	LIJIA.	
YU	SHIH-YIN.	
YU	WEIJIANG.	
YU	YUEH-O.	
YUASA	HISAO.	
YUCHENGCO	MARCUS	DANIELLE
YUONESS	SALEM.	
ZABIN	HAL	BRADLEY

Last name	First name	Middle name/initials
ZACHARIASSEN	ZOE.	
ZAFFIS	JOSHUA	GEORGE
ZAFOREK	ALEXANDER.	
ZANRE	RICARDO	G.
ZAVITZ	MARY	JANE
ZAWADZKI	CAROLINE.	
ZEHNDER	GERTRUD.	
ZEIDLER	ROBERT	M.
ZEJDL	MARK	KVETOSLAV
ZELLER	MICHAEL	BRUNO
ZELLWEGER	CHRISTIAN.	
ZEUS	GABRIELE	G.
ZHANG	QING.	
ZHANG	XIEPING.	
ZHANG	YAN.	
ZHAO	ZHU.	
ZHENG	WEIKANG.	
ZHENG	YU	HONG
ZHONG	QIZHOU.	
ZHOU	JIA	LIN
ZHOU	JIANHUA.	
ZINGG	SARAH.	
ZINK	FIONA	HEATHER
ZOET	DANIEL	NICOLAAS
ZONDLER	JUDITH.	
ZOU	JISHENG.	
ZROTZ	SARAH-MARIA.	
ZUBIRIA	MANUEL.	
ZUIJDGEEST	KOEN.	
ZWEIFEL	PAUL	HENRY

Dated: July 31, 2020.

Pamela Ross,

Manager Classification Team 82413, Examinations Operations—Philadelphia Compliance Services.

[FR Doc. 2020–17176 Filed 8–5–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, August 25, 2020 and Wednesday, August 26, 2020.

FOR FURTHER INFORMATION CONTACT: Gilbert Martinez at 1–888–912–1227 or (737) 800–4060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Tuesday, August 25, 2020, from 1:30pm to 3:30 p.m. Eastern Time and Wednesday, August 26, 2020, from 1:30pm to 3:30pm Eastern Time. The public is invited to make oral comments or submit written statements for consideration. For more information please contact Gilbert Martinez at 1–888–912–1227 or (737–800–4060), or write TAP Office 3651 S IH–35, STOP 1005 AUSC, Austin, TX 78741, or post comments to the website: *http://www.improveirs.org.*

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: July 31, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–17141 Filed 8–5–20; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 85 Thursday,

No. 152 August 6, 2020

Part II

The President

Executive Order 13940—Aligning Federal Contracting and Hiring Practices With the Interests of American Workers

Executive Order 13941—Improving Rural Health and Telehealth Access

Memorandum of August 3, 2020—Extension of the Use of the National Guard To Respond to COVID–19 and To Facilitate Economic Recovery

Memorandum of August 3, 2020—Extension of the Use of the National Guard To Respond to COVID–19 and To Facilitate Economic Recovery

Memorandum of August 3, 2020—Extension of the Use of the National Guard To Respond to COVID–19 and To Facilitate Economic Recovery

Federal Register
Vol. 85, No. 152
Thursday, August 6, 2020

Presidential Documents

Title 3—

The President

Executive Order 13940 of August 3, 2020

Aligning Federal Contracting and Hiring Practices With the Interests of American Workers

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Policy.* It is the policy of the executive branch to create opportunities for United States workers to compete for jobs, including jobs created through Federal contracts. These opportunities, particularly in regions where the Federal Government remains the largest employer, are especially critical during the economic dislocation caused by the 2019 novel coronavirus (COVID–19) pandemic. When employers trade American jobs for temporary foreign labor, for example, it reduces opportunities for United States workers in a manner inconsistent with the role guest-worker programs are meant to play in the Nation's economy.

Sec. 2. *Review of Contracting and Hiring Practices.* (a) The head of each executive department and agency (agency) that enters into contracts shall review, to the extent practicable, performance of contracts (including subcontracts) awarded by the agency in fiscal years 2018 and 2019 to assess:

(i) whether contractors (including subcontractors) used temporary foreign labor for contracts performed in the United States, and, if so, the nature of the work performed by temporary foreign labor on such contracts; whether opportunities for United States workers were affected by such hiring; and any potential effects on the national security caused by such hiring; and

(ii) whether contractors (including subcontractors) performed in foreign countries services previously performed in the United States, and, if so, whether opportunities for United States workers were affected by such offshoring; whether affected United States workers were eligible for assistance under the Trade Adjustment Assistance program authorized by the Trade Act of 1974; and any potential effects on the national security caused by such offshoring.

(b) The head of each agency that enters into contracts shall assess any negative impact of contractors' and subcontractors' temporary foreign labor hiring practices or offshoring practices on the economy and efficiency of Federal procurement and on the national security, and propose action, if necessary and as appropriate and consistent with applicable law, to improve the economy and efficiency of Federal procurement and protect the national security.

(c) The head of each agency shall, in coordination with the Director of the Office of Personnel Management, review the employment policies of the agency to assess the agency's compliance with Executive Order 11935 of September 2, 1976 (Citizenship Requirements for Federal Employment), and section 704 of the Consolidated Appropriations Act, 2020, Public Law 116–93.

(d) Within 120 days of the date of this order, the head of each agency shall submit a report to the Director of the Office of Management and Budget summarizing the results of the reviews required by subsections (a) through (c) of this section; recommending, if necessary, corrective actions that may be taken by the agency and timeframes to implement such actions; and proposing any Presidential actions that may be appropriate.

Sec. 3. *Measures to Prevent Adverse Effects on United States Workers.* Within 45 days of the date of this order, the Secretaries of Labor and Homeland Security shall take action, as appropriate and consistent with applicable law, to protect United States workers from any adverse effects on wages and working conditions caused by the employment of H–1B visa holders at job sites (including third-party job sites), including measures to ensure that all employers of H–1B visa holders, including secondary employers, adhere to the requirements of section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)).

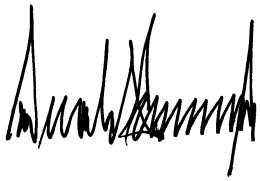
Sec. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

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



THE WHITE HOUSE,
August 3, 2020.

[FR Doc. 2020–17363
Filed 8–5–20; 11:15 am]
Billing code 3295–F0–P

Presidential Documents

Executive Order 13941 of August 3, 2020

Improving Rural Health and Telehealth Access

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Purpose.* My Administration is committed to improving the health of all Americans by improving access to better care, including for the approximately 57 million Americans living in rural communities. Americans living in rural communities face unique challenges when seeking healthcare services, such as limited transportation opportunities, shortages of healthcare workers, and an inability to fully benefit from technological and care-delivery innovations. These factors have contributed to financial insecurity and impaired health outcomes for rural Americans, who are more likely to die from five leading causes, many of which are preventable, than their urban counterparts. That gap widened from 2010 to 2017 for cancer, heart disease, and chronic lower respiratory disease.

Since 2010, the year the Affordable Care Act was passed, 129 rural hospitals in the United States have closed. Predictably, financial distress is the strongest driver for risk of closure, and many rural hospitals lack sufficient patient volume to be sustainable under traditional healthcare-reimbursement mechanisms. From 2015 to 2017, the average occupancy rate of a hospital that closed was only 22 percent. When hospitals close, the patient population around them carries an increased risk of mortality due to increased travel time and decreased access.

During the COVID–19 public health emergency (PHE), hospitals curtailed elective medical procedures and access to in-person clinical care was limited. To help patients better access healthcare providers, my Administration implemented new flexibility regarding what services may be provided via telehealth, who may provide them, and in what circumstances, and the use of telehealth increased dramatically across the Nation. Internal analysis by the Centers for Medicare and Medicaid Services (CMS) of the Department of Health and Human Services (HHS) showed a weekly jump in virtual visits for CMS beneficiaries, from approximately 14,000 pre-PHE to almost 1.7 million in the last week of April. Additionally, a recent report by HHS shows that nearly half (43.5 percent) of Medicare fee-for-service primary care visits were provided through telehealth in April, compared with far less than one percent (0.1 percent) in February before the PHE. Importantly, the report finds that telehealth visits continued to be frequent even after in-person primary care visits resumed in May, indicating that the expansion of telehealth services is likely to be a more permanent feature of the healthcare delivery system.

Rural healthcare providers, in particular, need these types of flexibilities to provide continuous care to patients in their communities. It is the purpose of this order to increase access to, improve the quality of, and improve the financial economics of rural healthcare, including by increasing access to high-quality care through telehealth.

Sec. 2. *Launching an Innovative Payment Model to Enable Rural Healthcare Transformation.* Within 30 days of the date of this order, the Secretary of HHS (Secretary) will announce a new model, pursuant to section 1115A of the Social Security Act (42 U.S.C. 1315a), to test innovative payment mechanisms in order to ensure that rural healthcare providers are able to provide the necessary level and quality of care. This model should give rural providers flexibilities from existing Medicare rules, establish predictable financial payments, and encourage the movement into high-quality, value-based care.

Sec. 3. *Investments in Physical and Communications Infrastructure.* Within 30 days of the date of this order, the Secretary and the Secretary of Agriculture shall, consistent with applicable law and subject to the availability of appropriations, and in coordination with the Federal Communications Commission and other executive departments and agencies, as appropriate, develop and implement a strategy to improve rural health by improving the physical and communications healthcare infrastructure available to rural Americans.

Sec. 4. *Improving the Health of Rural Americans.* Within 30 days of the date of this order, the Secretary shall submit a report to the President, through the Assistant to the President for Domestic Policy and the Assistant to the President for Economic Policy, regarding existing and upcoming policy initiatives to:

(a) increase rural access to healthcare by eliminating regulatory burdens that limit the availability of clinical professionals;

(b) prevent disease and mortality by developing rural-specific efforts to drive improved health outcomes;

(c) reduce maternal mortality and morbidity; and

(d) improve mental health in rural communities.

Sec. 5. *Expanding Flexibilities Beyond the Public Health Emergency.* Within 60 days of the date of this order, the Secretary shall review the following temporary measures put in place during the PHE, and shall propose a regulation to extend these measures, as appropriate, beyond the duration of the PHE:

(a) the additional telehealth services offered to Medicare beneficiaries; and

(b) the services, reporting, staffing, and supervision flexibilities offered to Medicare providers in rural areas.

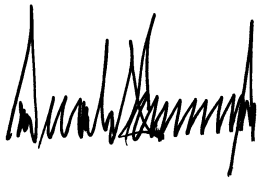
Sec. 6. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

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



THE WHITE HOUSE,
August 3, 2020.

[FR Doc. 2020–17364
Filed 8–5–20; 11:15 am]
Billing code 3295–F0–P

Presidential Documents

Memorandum of August 3, 2020

Extension of the Use of the National Guard To Respond to COVID–19 and To Facilitate Economic Recovery

Memorandum for the Secretary of Defense [and] the Secretary of Homeland Security

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the ''Stafford Act''), and section 502 of title 32, United States Code, it is hereby ordered as follows:

Section 1. *Policy.* It continues to be the policy of the United States to foster close cooperation and mutual assistance between the Federal Government and the States and territories in the battle against the threat posed by the spread of COVID–19, especially as the United States transitions to a period of increased economic activity and recovery in those areas of the Nation where the threat posed by COVID–19 has been sufficiently mitigated. To date, activated National Guard forces around the country have provided critical support to Governors as the Governors work to address the needs of those populations within their respective States and territories especially vulnerable to the effects of COVID–19, including those in nursing homes, assisted living facilities, and other long-term care or congregate settings. Additionally, States and territories will need assistance in fighting COVID–19 hot spots as they emerge. Therefore, to continue to provide maximum support to States and territories as they make decisions about the responses required to address local conditions in their respective jurisdictions with respect to combatting the threat posed by COVID–19 and, where appropriate, facilitating their economic recovery, I am taking the actions set forth in sections 2, 3, and 4 of this memorandum:

Sec. 2. *One Hundred Percent Federal Cost Share Termination.* The 100 percent Federal cost share for the State's use of National Guard forces for the States of Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and the territories of Guam, Puerto Rico, and the U.S. Virgin Islands shall terminate on August 21, 2020, in accordance with my prior memorandum dated June 2, 2020, titled ''Providing Continued Federal Support for Governors' Use of the National Guard to Respond to COVID–19 and to Facilitate Economic Recovery.''

Sec. 3. *Seventy-Five Percent Federal Cost Share.* To maximize assistance to the Governors of the States of Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and the territories of Guam, Puerto Rico, and the U.S. Virgin Islands to facilitate Federal support with respect to the use of National Guard units

under State control, I am directing the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security to fund 75 percent of the emergency assistance activities associated with preventing, mitigating, and responding to the threat to public health and safety posed by the virus that these States and territories undertake using their National Guard forces, as authorized by sections 403 (42 U.S.C. 5170b) and 503 (42 U.S.C. 5193) of the Stafford Act.

Sec. 4. *Seventy-Five Percent Federal Cost Share Termination.* The 75 percent Federal cost share provided for in section 3 of this memorandum shall be available for orders of any length authorizing duty through December 31, 2020. Such orders include duty necessary to comply with health protection protocols recommended by the Centers for Disease Control and Prevention of the Department of Health and Human Services or other health protection measures agreed to by the Department of Defense and FEMA.

Sec. 3. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

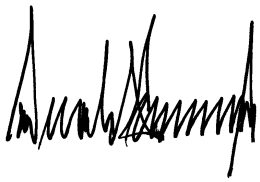
(i) the authority granted by law to an executive department or agency, or the head thereof; or

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

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

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

(d) The Secretary of Defense is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, August 3, 2020

[FR Doc. 2020–17370
Filed 8–5–20; 11:15 am]
Billing code 5001–06–P

Presidential Documents

Memorandum of August 3, 2020

Extension of the Use of the National Guard To Respond to COVID–19 and To Facilitate Economic Recovery

Memorandum for the Secretary of Defense [and] the Secretary of Homeland Security

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the ''Stafford Act''), and section 502 of title 32, United States Code, it is hereby ordered as follows:

Section 1. *Policy.* It continues to be the policy of the United States to foster close cooperation and mutual assistance between the Federal Government and the States and territories in the battle against the threat posed by the spread of COVID–19, especially as the United States transitions to a period of increased economic activity and recovery in those areas of the Nation where the threat posed by COVID–19 has been sufficiently mitigated. To date, activated National Guard forces around the country have provided critical support to Governors as the Governors work to address the needs of those populations within their respective States and territories especially vulnerable to the effects of COVID–19, including those in nursing homes, assisted living facilities, and other long-term care or congregate settings. Additionally, States and territories will need assistance in fighting COVID–19 hot spots as they emerge. Therefore, to continue to provide maximum support to States and territories as they make decisions about the responses required to address local conditions in their respective jurisdictions with respect to combatting the threat posed by COVID–19 and, where appropriate, facilitating their economic recovery, I am taking the actions set forth in section 2 of this memorandum:

Sec. 2. *Termination and Extension.* The 100 percent Federal cost share for the State's use of National Guard forces for the State of Texas shall extend to, and shall be available for orders of any length authorizing duty through December 31, 2020. Such orders include duty necessary to comply with health protection protocols recommended by the Centers for Disease Control and Prevention of the Department of Health and Human Services or other health protection measures agreed to by the Department of Defense and the Federal Emergency Management Agency of the Department of Homeland Security.

Sec. 3. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

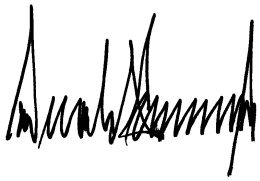
(i) the authority granted by law to an executive department or agency, or the head thereof; or

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

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

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

(d) The Secretary of Defense is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, August 3, 2020

[FR Doc. 2020–17371
Filed 8–5–20; 11:15 am]
Billing code 5001–06–P

Presidential Documents

Memorandum of August 3, 2020

Extension of the Use of the National Guard To Respond to COVID–19 and To Facilitate Economic Recovery

Memorandum for the Secretary of Defense [and] the Secretary of Homeland Security

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the ''Stafford Act''), and section 502 of title 32, United States Code, it is hereby ordered as follows:

Section 1. *Purpose Policy.* It continues to be the policy of the United States to foster close cooperation and mutual assistance between the Federal Government and the States and territories in the battle against the threat posed by the spread of COVID–19, especially as the United States transitions to a period of increased economic activity and recovery in those areas of the Nation where the threat posed by COVID–19 has been sufficiently mitigated. To date, activated National Guard forces around the country have provided critical support to Governors as the Governors work to address the needs of those populations within their respective States and territories especially vulnerable to the effects of COVID–19, including those in nursing homes, assisted living facilities, and other long-term care or congregate settings. Additionally, States and territories will need assistance in fighting COVID–19 hot spots as they emerge. Therefore, to continue to provide maximum support to States and territories as they make decisions about the responses required to address local conditions in their respective jurisdictions with respect to combatting the threat posed by COVID–19 and, where appropriate, facilitating their economic recovery, I am taking the actions set forth in section 2 of this memorandum:

Sec. 2. *Termination and Extension.* The 100 percent Federal cost share for the State's use of National Guard forces for the State of Florida shall extend to, and shall be available for orders of any length authorizing duty through December 31, 2020. Such orders include duty necessary to comply with health protection protocols recommended by the Centers for Disease Control and Prevention of the Department of Health and Human Services or other health protection measures agreed to by the Department of Defense and the Federal Emergency Management Agency of the Department of Homeland Security.

Sec. 3. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

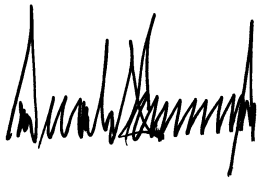
(i) the authority granted by law to an executive department or agency, or the head thereof; or

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

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

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

(d) The Secretary of Defense is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, August 3, 2020

[FR Doc. 2020–17386
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