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Title 3—

The President

Proclamation 10062 of August 18, 2020

100th Anniversary of the Ratification of the Nineteenth Amendment

By the President of the United States of America

A Proclamation

On this day in 1920, the 19th Amendment to our Constitution was ratified, securing the right to vote for women and marking a monumental step toward the ''more perfect Union'' envisioned by our Founders. This milestone in American history was the product of the tireless efforts of suffragists and other advocates for women's rights, who steadfastly pursued their vision of a more just and equal society.

In the early days of our Nation's fight for independence, future First Lady Abigail Adams penned a letter to her husband, John Adams, urging him to ''remember the ladies'' as he fought to preserve the fledgling United States. She advised him that ''if particular care and attention is not paid to the ladies, we are determined to foment a rebellion, and will not hold ourselves bound by any laws in which we have no voice or representation.'' In the decades that followed, bold trailblazers like Susan B. Anthony, Elizabeth Cady Stanton, Harriet Forten Purvis, and Frances Ellen Watkins Harper carried forward and fought for the fundamental right of women to vote. The road to suffrage was long and challenging, but the faith, fortitude, and resolute determination of those committed to this noble cause brought about a victory that continues to inspire today.

As we commemorate this historic event, we also celebrate the incredible economic, political, and social contributions women have made to our Nation. As President, I am committed to building on these accomplishments and empowering all women and girls to achieve their fullest potential. As part of this effort, in February of last year, my Administration launched the Women's Global Development and Prosperity Initiative, the first whole-of-government effort to advance women's economic empowerment around the globe. My Administration also released our Strategy on Women, Peace, and Security in June of last year to increase the political participation of women at home and abroad, recognizing that women's participation in conflict resolution and ending violent extremism can set the course toward a more peaceful world. We are also prioritizing the safety and well-being of women and girls through our commitment to combatting sex trafficking and empowering survivors, who are disproportionately women, and through Operation Lady Justice, the Presidential Task Force on Missing and Murdered American Indians and Alaska Natives.

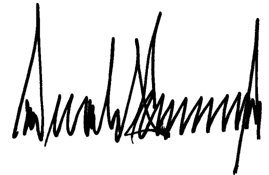
My Administration also understands that empowering women means implementing an economic agenda that enhances freedom and creates opportunities for women and working families. As part of this effort, the historic 2017 Tax Cuts and Jobs Act doubled the Child Tax Credit, and I signed legislation that provided for the largest ever increase in funding for the Child Care and Development Block Grant, which will help ease the burden of child care borne disproportionately by mothers. Additionally, in December of last year, I signed legislation providing for 12 weeks of paid parental leave for Federal employees. As I have since my first day in office, I continue to call on the Congress to pass a nationwide paid family leave program.

My Administration's unprecedented investment in working families is already paying dividends. Women's unemployment in the United States reached the lowest level in 65 years. And in 2019, women filled 71 percent of all new jobs in the United States.

Today, as we celebrate a major step forward for our Nation, we pay tribute to the countless women, known and unknown, throughout our history who struggled for equality. In doing so, we recommit to ensuring our Constitution is faithfully upheld so that all Americans can pursue their dreams and fulfill their God-given potential.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim August 18, 2020, as a day in celebration of the 100th Anniversary of the Ratification of the 19th Amendment.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of August, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fifth.



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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Chapter I

Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Mexico

AGENCY: Office of the Secretary, U.S. Department of Homeland Security; U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: Notification of continuation of temporary travel restrictions.

SUMMARY: This document announces the decision of the Secretary of Homeland Security (Secretary) to continue to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border. Such travel will be limited to ''essential travel,'' as further defined in this document.

DATES: These restrictions go into effect at 12 a.m. Eastern Daylight Time (EDT) on August 21, 2020, and will remain in effect until 11:59 p.m. EDT on September 21, 2020.

FOR FURTHER INFORMATION CONTACT: Alyce Modesto, Office of Field Operations, U.S. Customs and Border Protection (CBP) at 202–344–3788.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 2020, DHS published notice of the Secretary's decision to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to ''essential travel,'' as further defined in that document.[1] The document described the developing circumstances regarding the COVID–19 pandemic and stated that, given the outbreak and continued transmission and spread of the virus associated with COVID–19 within the United States and globally, the Secretary had determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Mexico posed a ''specific threat to human life or national interests.'' The Secretary later published a series of notifications continuing such limitations on travel until 11:59 p.m. EDT on August 20, 2020.[2]

The Secretary has continued to monitor and respond to the COVID–19 pandemic. As of August 17, there are over 21.2 million confirmed cases globally, with over 761,000 confirmed deaths.[3] There are over 5.3 million confirmed and probable cases within the United States,[4] over 121,000 confirmed cases in Canada,[5] and over 511,000 confirmed cases in Mexico.[6]

Notice of Action

Given the outbreak and continued transmission and spread of COVID–19 within the United States and globally, the Secretary has determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Mexico poses an ongoing ''specific threat to human life or national interests.''

U.S. and Mexican officials have mutually determined that non-essential travel between the United States and Mexico poses additional risk of transmission and spread of the virus associated with COVID–19 and places the populace of both nations at increased risk of contracting the virus associated with COVID–19. Moreover, given the sustained human-to-human transmission of the virus, returning to previous levels of travel between the two nations places the personnel staffing land ports of entry between the United States and Mexico, as well as the individuals traveling through these ports of entry, at increased risk of exposure to the virus associated with COVID–19. Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),[7] I have determined that land ports of entry along the U.S.-Mexico border will continue to suspend normal operations and will only allow processing for entry into the United States of those travelers engaged in ''essential travel,'' as defined below. Given the definition of ''essential travel'' below, this temporary alteration in land ports of entry operations should not interrupt legitimate trade between the two nations or disrupt critical supply chains that ensure food, fuel, medicine, and other critical materials reach individuals on both sides of the border.

For purposes of the temporary alteration in certain designated ports of

[1] 85 FR 16547 (Mar. 24, 2020). That same day, DHS also published notice of the Secretary's decision to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to ''essential travel,'' as further defined in that document. 85 FR 16548 (Mar. 24, 2020).

[2] *See* 85 FR 44183 (July 22, 2020); 85 FR 37745 (June 24, 2020); 85 FR 31057 (May 22, 2020); 85 FR 22353 (Apr. 22, 2020). DHS also published parallel notifications of the Secretary's decisions to continue temporarily limiting the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to ''essential travel.'' *See* 85 FR 44185 (July 22, 2020); 85 FR 37744 (June 24, 2020); 85 FR 31050 (May 22, 2020); 85 FR 22352 (Apr. 22, 2020).

[3] WHO, Coronavirus disease 2019 (COVID–19) Situation Report—209 (Aug. 16, 2020), available at *https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200816-covid-19-sitrep-209.pdf?sfvrsn=5dde1ca2_2.*

[4] CDC, Cases of COVID–19 in the U.S. (last updated Aug. 17, 2020), available at *https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html.*

[5] WHO, Coronavirus disease 2019 (COVID–19) Situation Report—209 (Aug. 16, 2020).

[6] *Id.*

[7] 19 U.S.C. 1318(b)(1)(C) provides that ''[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,'' is authorized to ''[t]ake any . . . action that may be necessary to respond directly to the national emergency or specific threat.'' On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland Security. *See* 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities ''related to Customs revenue functions'' were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. *See* Treas. Dep't Order No. 100–16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that ''[n]otwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.'' Congress has vested in the Secretary of Homeland Security the ''functions of all officers, employees, and organizational units of the Department,'' including the Commissioner of CBP. 6 U.S.C. 112(a)(3).

entry operations authorized under 19 U.S.C. 1318(b)(1)(C) and (b)(2), travel through the land ports of entry and ferry terminals along the United States-Mexico border shall be limited to ''essential travel,'' which includes, but is not limited to—

- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (*e.g.,* to receive medical treatment in the United States);
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the United States (*e.g.,* individuals working in the farming or agriculture industry who must travel between the United States and Mexico in furtherance of such work);
- Individuals traveling for emergency response and public health purposes (*e.g.,* government officials or emergency responders entering the United States to support federal, state, local, tribal, or territorial government efforts to respond to COVID–19 or other emergencies);
- Individuals engaged in lawful cross-border trade (*e.g.,* truck drivers supporting the movement of cargo between the United States and Mexico);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the United States; and
- Individuals engaged in military-related travel or operations.

The following travel does not fall within the definition of ''essential travel'' for purposes of this Notification—

- Individuals traveling for tourism purposes (*e.g.,* sightseeing, recreation, gambling, or attending cultural events).

At this time, this Notification does not apply to air, freight rail, or sea travel between the United States and Mexico, but does apply to passenger rail, passenger ferry travel, and pleasure boat travel between the United States and Mexico. These restrictions are temporary in nature and shall remain in effect until 11:59 p.m. EDT on September 21, 2020. This Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat.

The Commissioner of U.S. Customs and Border Protection (CBP) is hereby directed to prepare and distribute appropriate guidance to CBP personnel on the continued implementation of the temporary measures set forth in this Notification. The CBP Commissioner may determine that other forms of travel, such as travel in furtherance of economic stability or social order, constitute ''essential travel'' under this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian reasons or for other purposes in the national interest, permit the processing of travelers to the United States not engaged in ''essential travel.''

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

Chad R. Mizelle,

Senior Official Performing the Duties of the General Counsel, U.S. Department of Homeland Security.

[FR Doc. 2020–18468 Filed 8–19–20; 4:15 pm]

BILLING CODE 9112–FP–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Chapter I

Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Canada

AGENCY: Office of the Secretary, U.S. Department of Homeland Security; U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: Notification of continuation of temporary travel restrictions.

SUMMARY: This document announces the decision of the Secretary of Homeland Security (Secretary) to continue to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border. Such travel will be limited to ''essential travel,'' as further defined in this document.

DATES: These restrictions go into effect at 12 a.m. Eastern Daylight Time (EDT) on August 21, 2020, and will remain in effect until 11:59 p.m. EDT on September 21, 2020.

FOR FURTHER INFORMATION CONTACT: Alyce Modesto, Office of Field Operations, U.S. Customs and Border Protection (CBP) at 202–344–3788.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 2020, DHS published notice of the Secretary's decision to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to ''essential travel,'' as further defined in that document.[1] The document described the developing circumstances regarding the COVID–19 pandemic and stated that, given the outbreak and continued transmission and spread of the virus associated with COVID–19 within the United States and globally, the Secretary had determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Canada posed a ''specific threat to human life or national interests.'' The Secretary later published a series of notifications continuing such limitations on travel until 11:59 p.m. EDT on August 20, 2020.[2]

The Secretary has continued to monitor and respond to the COVID–19 pandemic. As of August 17, there are over 21.2 million confirmed cases globally, with over 761,000 confirmed deaths.[3] There are over 5.3 million confirmed and probable cases within the United States,[4] over 121,000 confirmed cases in Canada,[5] and over 511,000 confirmed cases in Mexico.[6]

Notice of Action

Given the outbreak and continued transmission and spread of COVID–19 within the United States and globally, the Secretary has determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Canada poses an ongoing ''specific threat to human life or national interests.''

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[1] 85 FR 16548 (Mar. 24, 2020). That same day, DHS also published notice of the Secretary's decision to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to ''essential travel,'' as further defined in that document. 85 FR 16547 (Mar. 24, 2020).

[2] *See* 85 FR 44185 (July 22, 2020); 85 FR 37744 (June 24, 2020); 85 FR 31050 (May 22, 2020); 85 FR 22352 (Apr. 22, 2020). DHS also published parallel notifications of the Secretary's decisions to continue temporarily limiting the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to ''essential travel.'' *See* 85 FR 44183 (July 22, 2020); 85 FR 37745 (June 24, 2020); 85 FR 31057 (May 22, 2020); 85 FR 22353 (Apr. 22, 2020).

[3] WHO, Coronavirus disease 2019 (COVID–19) Situation Report—209 (Aug. 16, 2020), available at *https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200816-covid-19-sitrep-209.pdf?sfvrsn=5dde1ca2_2.*

[4] CDC, Cases of COVID–19 in the U.S. (last updated Aug. 17, 2020), available at *https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html.*

[5] WHO, Coronavirus disease 2019 (COVID–19) Situation Report—209 (Aug. 16, 2020).

[6] *Id.*

U.S. and Canadian officials have mutually determined that non-essential travel between the United States and Canada poses additional risk of transmission and spread of the virus associated with COVID–19 and places the populace of both nations at increased risk of contracting the virus associated with COVID–19. Moreover, given the sustained human-to-human transmission of the virus, returning to previous levels of travel between the two nations places the personnel staffing land ports of entry between the United States and Canada, as well as the individuals traveling through these ports of entry, at increased risk of exposure to the virus associated with COVID–19. Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),[7] I have determined that land ports of entry along the U.S.-Canada border will continue to suspend normal operations and will only allow processing for entry into the United States of those travelers engaged in ''essential travel,'' as defined below. Given the definition of ''essential travel'' below, this temporary alteration in land ports of entry operations should not interrupt legitimate trade between the two nations or disrupt critical supply chains that ensure food, fuel, medicine, and other critical materials reach individuals on both sides of the border.

For purposes of the temporary alteration in certain designated ports of entry operations authorized under 19 U.S.C. 1318(b)(1)(C) and (b)(2), travel through the land ports of entry and ferry terminals along the United States-Canada border shall be limited to ''essential travel,'' which includes, but is not limited to—

- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (*e.g.,* to receive medical treatment in the United States);
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the United States (*e.g.,* individuals working in the farming or agriculture industry who must travel between the United States and Canada in furtherance of such work);
- Individuals traveling for emergency response and public health purposes (*e.g.,* government officials or emergency responders entering the United States to support federal, state, local, tribal, or territorial government efforts to respond to COVID–19 or other emergencies);
- Individuals engaged in lawful cross-border trade (*e.g.,* truck drivers supporting the movement of cargo between the United States and Canada);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the United States; and
- Individuals engaged in military-related travel or operations.

The following travel does not fall within the definition of ''essential travel'' for purposes of this Notification—

- Individuals traveling for tourism purposes (*e.g.,* sightseeing, recreation, gambling, or attending cultural events).

At this time, this Notification does not apply to air, freight rail, or sea travel between the United States and Canada, but does apply to passenger rail, passenger ferry travel, and pleasure boat travel between the United States and Canada. These restrictions are temporary in nature and shall remain in effect until 11:59 p.m. EDT on September 21, 2020. This Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat.

The Commissioner of U.S. Customs and Border Protection (CBP) is hereby directed to prepare and distribute appropriate guidance to CBP personnel on the continued implementation of the temporary measures set forth in this Notification. The CBP Commissioner may determine that other forms of travel, such as travel in furtherance of economic stability or social order, constitute ''essential travel'' under this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian reasons or for other purposes in the national interest, permit the processing of travelers to the United States not engaged in ''essential travel.''

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

Chad R. Mizelle,

Senior Official Performing the Duties of the General Counsel, U.S. Department of Homeland Security.

[FR Doc. 2020–18470 Filed 8–19–20; 4:15 pm]

BILLING CODE 9112–FP–P

[7] 19 U.S.C. 1318(b)(1)(C) provides that ''[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,'' is authorized to ''[t]ake any . . . action that may be necessary to respond directly to the national emergency or specific threat.'' On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland Security. *See* 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities ''related to Customs revenue functions'' were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. *See* Treas. Dep't Order No. 100–16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that ''[n]otwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.'' Congress has vested in the Secretary of Homeland Security the ''functions of all officers, employees, and organizational units of the Department,'' including the Commissioner of CBP. 6 U.S.C. 112(a)(3).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 610

[Docket No. FDA–2018–N–4757]

RIN 0910–AH95

Revocation of the Test for Mycoplasma

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is issuing a final rule to remove the specified test for the presence of *Mycoplasma* for live virus vaccines and inactivated virus vaccines produced from in vitro living cell cultures. The rule is being finalized because the existing test for *Mycoplasma* is overly restrictive in that it identifies only one test method in detail to be used even though other methods also may be appropriate. More sensitive and specific methods exist and are currently being practiced, and removal of the specific method to test for *Mycoplasma* provides flexibility for accommodating new and evolving technology and capabilities without diminishing public health protections. This action is part of FDA's implementation of Executive Orders under which FDA is comprehensively reviewing existing regulations to identify opportunities for repeal, replacement, or modification that will result in meaningful burden reduction, while allowing the Agency to achieve our public health mission and fulfill statutory obligations.

DATES: This rule is effective September 21, 2020.

ADDRESSES: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and insert the docket number found in brackets in the heading of this final rule into the ''Search'' box and follow the prompts, and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Tami Belouin, 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:

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I. Executive Summary

A. Purpose of the Final Rule

FDA is removing the regulation requiring a specified test for the presence of *Mycoplasma* for live virus vaccines produced from in vitro living cell cultures and inactivated virus vaccines produced from such living cell cultures because the regulation is overly restrictive in that it identifies only one test method in detail to be used even though other methods also may be appropriate. More sensitive and specific methods exist and are currently being practiced, and removal of the required test for *Mycoplasma* provides flexibility for accommodating new and evolving technology and capabilities without diminishing public health protections.

B. Summary of the Major Provisions of the Final Rule

The final rule removes § 610.30 (21 CFR 610.30), which details the method for *Mycoplasma* testing of samples of the virus harvest pool and control fluid pool of live virus vaccines and inactivated virus vaccines produced from in vitro living cell cultures.

C. Legal Authority

FDA is taking this action under the biological products provisions of the Public Health Service Act (the PHS Act), and the drugs and general administrative provisions of the Federal Food, Drug, and Cosmetic Act (FD&C Act).

D. Costs and Benefits

Because this final rule will not impose any additional regulatory burdens, this regulation is not anticipated to result in any compliance costs and the economic impact is expected to be minimal.

II. Background

A. Introduction

On February 24, 2017, Executive Order 13777, ''Enforcing the Regulatory Reform Agenda'' (*https://www.federalregister.gov/documents/2017/03/01/2017-04107/enforcing-the-regulatory-reform-agenda;* 82 FR 12285, March 1, 2017) was issued. One of the provisions in the Executive Order requires Agencies to evaluate existing regulations and make recommendations to the Agency head regarding their repeal, replacement, or modification, consistent with applicable law. As part of this initiative, FDA is revoking a regulation as specified in this final rule.

B. Need for the Regulation

It has become increasingly clear that the requirement specifying a test for *Mycoplasma* is too restrictive for live virus vaccines and inactivated virus vaccines produced from in vitro living cell cultures because they specify particular methodologies when alternatives may be available that provide the same or greater level of assurance of safety. Modifications to *Mycoplasma* testing described in § 610.30 must meet the requirements of 21 CFR 610.9.

Thus, the Agency believes that the regulation may no longer reflect the current testing procedures as a general matter and that it is more appropriate, flexible, and efficient to identify appropriate testing requirements for particular products in the biologics license application (BLA).

This final rule removes the specified test for the presence of *Mycoplasma* to provide flexibility for accommodating new and evolving technology and capabilities without diminishing public health protections. Removal of this regulation allows manufacturers of live virus vaccines produced from in vitro living cell cultures and inactivated virus vaccines produced from such living cell cultures to select the most scientifically appropriate *Mycoplasma* testing method to assure the safety, purity, and potency of their vaccines.

These newer technologies can result in higher sensitivity and specificity of *Mycoplasma* detection and could reduce the time required to complete testing for *Mycoplasma*. Removal of this regulation does not remove *Mycoplasma* testing requirements specified in individual BLAs. A manufacturer of a live virus vaccine produced from in vitro living cell cultures and inactivated virus vaccines produced from such living cell cultures will continue to be required to follow the *Mycoplasma* test requirements specified in its BLA, unless the BLA was revised to modify or replace the test through a supplement in accordance with § 601.12(c) (21 CFR 601.12(c)). FDA would review proposed changes to a manufacturer's approved biologics license in the context of that particular application to ensure that any such action is appropriate.

Although the final rule removes the regulation, a manufacturer continues to be required to test for *Mycoplasma* as specified in its BLA. This action provides regulated industry with flexibility, as appropriate, to employ advances in science and technology as they become available, without diminishing public health protections. As appropriate, the Agency will describe the appropriate tests for particular products in manufacturers' BLAs.

C. Summary of Comments to the Proposed Rule

We received comments on the proposed rule from individuals and industry submitters. The comments were generally supportive, with some comments suggesting new testing procedures be proposed. These comments are further summarized in section IV.

III. Legal Authority

We are issuing this final rule under the biological products provisions of the PHS Act (42 U.S.C. 216, 262, 263, 263a, and 264) and the drugs and general administrative provisions of the FD&C Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 360, 360c, 360d, 360h, 360i, 371, 372, 374, and 381). Under these provisions of the PHS Act and the FD&C Act, we have the authority to issue and enforce regulations designed to ensure that biological products are safe, pure, and potent, and prevent the

introduction, transmission, and spread of communicable disease.

IV. Comments on the Proposed Rule and FDA Response

A. Introduction

We received comments on the proposed rule from individuals and industry submitters. We describe and respond to the comments in section IV.B. We have combined comments on similar topics and have numbered each comment to help distinguish between different comments. The number assigned to each comment or comment topic is purely for organizational purposes and does not signify the comment's value or importance or the order in which comments were received.

B. Comments and FDA Response

(Comment 1) One comment requested that FDA not finalize the rule, but instead amend the proposal to revoke the current test for *Mycoplasma.* The commenter proposed that FDA include methodologies on newer tests and how they are distinguishable from the present test; comparable data on the accuracy of *Mycoplasma* detection between the present and newer tests, and any other additional information that would support FDA's argument that the newer tests are more efficient.

(Response 1) FDA interprets this comment to support the proposal to remove the currently described methodology and to amend the regulation to specify alternative acceptable tests. The purpose of this rulemaking is to permit manufacturers of live virus vaccines produced from in vitro living cell cultures and inactivated virus vaccines produced from such living cell cultures to select the most scientifically appropriate *Mycoplasma* testing method to assure the safety, purity, and potency of their vaccines. Thus, FDA declines to amend the regulation to specify alternative acceptable tests because this would not achieve the goal of allowing flexibility, as appropriate, to employ advances in science and technology as they become available without diminishing public health protections. However, FDA acknowledges that guidance is helpful to describe FDA's current thinking on alternative methods of testing for *Mycoplasma* in manufacturing samples of live virus vaccines and inactivated virus vaccines produced from in vitro living cell cultures. FDA notes that recommended alternative methods for *Mycoplasma* testing for viral vaccines are described in ''Guidance for Industry: Characterization and Qualification of Cell Substrates and Other Biological Materials Used in the Production of Viral Vaccines for Infectious Disease Indications'' (February 2010) (*https://www.fda.gov/media/78428/download*).

(Comment 2) One comment supported the proposed rule.

(Response 2) We acknowledge and appreciate the supportive comment.

(Comment 3) One comment did not comment specifically on finalizing the rule, but stated that with changes to technology, it makes sense to update testing procedures. The comment stated that ''a list of the new proposed test methods would be beneficial to compare the overall benefits and disadvantages.'' Another comment suggested that if the rule is finalized, FDA should provide guidance for alternative methods of testing for *Mycoplasma.*

(Response 3) While the comment states that it would be helpful to have a list of new proposed test methods, FDA does not believe the regulation should be amended to include such a list because that list could become outdated. License holders are welcome to discuss with FDA proposals to change their existing test methods and to submit proposals to FDA to revise the current test methods in use.

FDA also acknowledges that guidance is helpful to describe FDA's current thinking on acceptable alternative methods of testing for *Mycoplasma* in manufacturing samples of live virus vaccines and inactivated virus vaccines produced from in vitro living cell cultures. FDA notes that recommended alternative methods for *Mycoplasma* testing for viral vaccines are described in ''Guidance for Industry: Characterization and Qualification of Cell Substrates and Other Biological Materials Used in the Production of Viral Vaccines for Infectious Disease Indications'' (February 2010) (*https://www.fda.gov/media/78428/download*).

(Comment 4) One comment strongly supported removal of the regulation and agreed that more sensitive test methods exist; however, the commenter wanted the scope of the impact to be expanded to include all biological product manufacturers.

(Response 4) We acknowledge and appreciate the supportive comment. The request to expand the revocation to include all biological product manufacturers is beyond the scope of this rule making because § 610.30 pertains to manufacturers of live virus vaccines and inactivated virus vaccines produced from in vitro living cell cultures.

V. Effective Date

The final rule will become effective 30 days after the date of publication in the **Federal Register**.

VI. Economic Analysis of Impacts

A. Introduction

We have examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, Executive Order 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 13771 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.'' We believe that this final rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this rule would increase flexibility and does not add any new regulatory responsibilities, we certify that the final rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before issuing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $154 million, using the most current (2018) Implicit Price Deflator for the Gross Domestic Product. This final rule would not result in an expenditure in any year that meets or exceeds this amount.

B. Summary of Costs and Benefits

This final rule will amend the biologics regulations under § 610.30 by removing the specified test for *Mycoplasma* in the production of live virus vaccines produced from in vitro living cell cultures and inactivated virus

vaccines produced from such living cell cultures.

Removing the § 610.30 Test for *Mycoplasma* will provide manufacturers with the flexibility to determine the most appropriate and effective *Mycoplasma* testing methods. FDA guidance dated after § 610.30, codified in 1973 (November 20, 1973, 38 FR 32056), outlines up-to-date scientific practices to identify *Mycoplasma* in production of live virus vaccines produced from in vitro living cell cultures and inactivated virus vaccines produced from in vitro living cell cultures. In practice, a vaccine manufacturer can change its procedures at any time with submission and prior approval of a supplement to its BLA. As a result, we do not expect the repeal of the § 610.30 Test for Mycoplasma to significantly influence the behavior or procedures of vaccine manufacturers.

Because manufacturers already have the ability to pursue alternative testing procedures, we anticipate no measurable change in industry or FDA behavior from this final rulemaking. We therefore expect the elimination of the § 610.30 Test for *Mycoplasma* to be cost neutral. This final rule will therefore produce no quantifiable savings, costs, or transfers. We also expect no public health benefits to be lost as a result of this revocation. Finally, we note that this final rulemaking may drive some manufacturers to streamline their procedures and search for more efficient *Mycoplasma* testing methods. This optimization may produce some unquantifiable efficiencies.

TABLE 1—SUMMARY OF BENEFITS, COSTS AND DISTRIBUTIONAL EFFECTS OF FINAL RULE

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate (%)	Period covered	
Benefits:							
Annualized	....	....	....	....	7		
Monetized $millions/year	....	....	....	....	3		
Annualized	....	....	....	....	7		
Quantified	....	....	....	....	3		
Qualitative	Benefits to manufacturers from flexibility to determine appropriate and effective *Mycoplasma* testing methods.			....	....		
Costs:							
Annualized	....	....	....	....	7		
Monetized $millions/year	....	....	....	....	3		
Annualized	....	....	....	....	7		
Quantified	....	....	....	....	3		
Qualitative	Costs to manufacturers to change *Mycoplasma* testing methods, if voluntarily pursued.			....	....		
Transfers:							
Federal	....	....	....	....	7		
Annualized	....	....	....	....	3		
Monetized $millions/year	....	....	....	....	....		
From/To	From:			To:			
Other	....	....	....	....	7		
Annualized	....	....	....	....	3		
Monetized $millions/year	....	....	....	....	....		
From/To	From:			To:			

Effects:
- State, Local or Tribal Government: None.
- Small Business: None.
- Wages: None.
- Growth: None.

In line with Executive Order 13771, in table 2 we present annualized values of costs and cost savings over an infinite time horizon. There are no quantifiable costs or cost savings from this rule. This final rule would be considered a deregulatory action under Executive Order 13771.

TABLE 2—EXECUTIVE ORDER 13771 SUMMARY TABLE
[in $ Millions 2016 Dollars, Over an Infinite Time Horizon]

Item	Primary estimate (7%)	Lower estimate (7%)	Upper estimate (7%)
Present Value of Costs			
Present Value of Cost Savings			
Present Value of Net Costs			
Annualized Costs			
Annualized Cost Savings			
Annualized Net Costs			

We have developed a comprehensive Economic Analysis of Impacts that assesses the impacts of the final rule. The full analysis of economic impacts is available in the docket for this final rule (Ref. 1) and at *https://www.fda.gov/about-fda/reports/economic-impact-analyses-fda-regulations*.

VII. Analysis of Environmental Impact

We have determined under 21 CFR 25.31(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

IX. Federalism

We have analyzed this final rule in accordance with the principles set forth in Executive Order 13132. We have determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

X. Consultation and Coordination With Indian Tribal Governments

We have analyzed this rule in accordance with the principles set forth in Executive Order 13175. We have determined that the rule does not contain policies that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Accordingly, we conclude that the rule does not contain policies that have tribal implications as defined in the Executive Order and, consequently, a tribal summary impact statement is not required.

XI. Reference

The following reference is on display at the Dockets Management Staff (see **ADDRESSES**) and is available for viewing by interested persons between 9 a.m. and 4 p.m. Monday through Friday; it is also available electronically at *https://www.regulations.gov*. FDA has verified the website address, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. FDA/Economics Staff, ''Elimination of the 21 CFR 610.30 Test for *Mycoplasma* Preliminary Regulatory Impact Analysis, Preliminary Regulatory Flexibility Analysis, Unfunded Mandates Reform Act Analysis,'' 2018. (Available at *https://www.fda.gov/about-fda/reports/economic-impact-analyses-fda-regulations*.)

List of Subjects in 21 CFR part 610

Biologics, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 610 is amended as follows:

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

■ 1. The authority citation for part 610 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 360, 360c, 360d, 360h, 360i, 371, 372, 374, 381; 42 U.S.C. 216, 262, 263, 263a, 264.

Subpart D—[Removed and Reserved]

■ 2. Remove and reserve subpart D, consisting of § 610.30.

Dated: July 29, 2020.

Stephen M. Hahn,

Commissioner of Food and Drugs.

[FR Doc. 2020–17085 Filed 8–20–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1308 and 1312

[Docket No. DEA–500]

RIN 1117–AB53

Implementation of the Agriculture Improvement Act of 2018

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Interim final rule with request for comments.

SUMMARY: The purpose of this interim final rule is to codify in the Drug Enforcement Administration (DEA) regulations the statutory amendments to the Controlled Substances Act (CSA) made by the Agriculture Improvement Act of 2018 (AIA), regarding the scope of regulatory controls over marihuana, tetrahydrocannabinols, and other marihuana-related constituents. This interim final rule merely conforms DEA's regulations to the statutory amendments to the CSA that have already taken effect, and it does not add additional requirements to the regulations.

DATES: Effective August 21, 2020. Electronic comments must be submitted, and written comments must be postmarked, on or before October 20, 2020. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

ADDRESSES: To ensure proper handling of comments, please reference ''RIN 1117–AB53/Docket No. DEA–500'' on all correspondence, including any attachments.

- *Electronic comments:* The Drug Enforcement Administration encourages that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *http://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon completion of your submission, you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on *http://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted, and there is no need to resubmit the same comment.
- *Paper comments:* Paper comments that duplicate the electronic submission are not necessary and are discouraged. Should you wish to mail a paper comment *in lieu* of an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, Diversion Control Division; Mailing Address: 8701 Morrissette Drive, Springfield, VA 22152.

FOR FURTHER INFORMATION CONTACT:

Scott A. Brinks, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–2596.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received are considered part of the public record. They will, unless reasonable cause is given, be made available by the Drug Enforcement Administration (DEA) for public inspection online at *http://www.regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. The Freedom of Information Act (FOIA) applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be made publicly available, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all of the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be made publicly available, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify the confidential business information to be redacted within the comment.

Comments containing personal identifying information and confidential business information identified as directed above will generally be made publicly available in redacted form. If a comment has so much confidential business information or personal identifying information that it cannot be effectively redacted, all or part of that comment may not be made publicly available. Comments posted to *http://www.regulations.gov* may include any personal identifying information (such as name, address, and phone number) included in the text of your electronic submission that is not identified as directed above as confidential.

An electronic copy of this document and the complete Economic Impact Analysis, to this interim final rule are available in their entirety under the tab ''Supporting Documents'' of the public docket of this action at *http://www.regulations.gov* under FDMS Docket ID: DEA–500 (RIN 1117–AB53/Docket Number DEA–500) for easy reference.

Executive Summary

The Agriculture Improvement Act of 2018, Public Law 115–334 (the AIA), was signed into law on December 20, 2018. It provided a new statutory definition of ''hemp'' and amended the definition of marihuana under 21 U.S.C. 802(16) and the listing of tetrahydrocannabinols under 21 U.S.C. 812(c). The AIA thereby amends the regulatory controls over marihuana, tetrahydrocannabinols, and other marihuana-related constituents in the Controlled Substances Act (CSA).

This rulemaking makes four conforming changes to DEA's existing regulations:

- It modifies 21 CFR 1308.11(d)(31) by adding language stating that the definition of ''Tetrahydrocannabinols'' does not include ''any material, compound, mixture, or preparation that falls within the definition of hemp set forth in 7 U.S.C. 1639*o*.''
- It removes from control in schedule V under 21 CFR 1308.15(f) a ''drug product in finished dosage formulation that has been approved by the U.S. Food and Drug Administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1% (w/w) residual tetrahydrocannabinols.''
- It also removes the import and export controls described in 21 CFR 1312.30(b) over those same substances.
- It modifies 21 CFR 1308.11(d)(58) by stating that the definition of ''Marihuana Extract'' is limited to extracts ''containing greater than 0.3 percent delta-9-tetrahydrocannabinol on a dry weight basis.''

This interim final rule merely conforms DEA's regulations to the statutory amendments to the CSA that have already taken effect, and it does not add additional requirements to the regulations. Accordingly, there are no additional costs resulting from these regulatory changes. However, as discussed below, the changes reflected in this interim final rule are expected to result in annual cost savings for affected entities.

Changes to the Definition of Marihuana

The AIA amended the CSA's regulatory controls over marihuana by amending its definition under the CSA. Prior to the AIA, marihuana was defined in 21 U.S.C. 802(16) as follows:

> The term ''marihuana'' means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

The AIA modified the foregoing definition by adding that the ''term 'marihuana' does not include hemp, as defined in section 1639*o* of Title 7.'' 21 U.S.C. 802(16)(B). Furthermore, the AIA added a definition of ''hemp'' to 7 U.S.C. 1639*o,* which reads as follows:

> The term 'hemp' means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

Taken together, these two changes made by the AIA limit the definition of marihuana to only include cannabis or cannabis-derived material that contain more than 0.3% delta-9-tetrahydrocannabinol (also known as Δ^9-THC) on a dry weight basis. Thus, to fall within the current CSA definition of

marihuana, cannabis and cannabis-derived material must both fall within the pre-AIA CSA definition of marihuana and contain more than 0.3 percent Δ9-THC on a dry weight basis. Pursuant to the AIA, unless specifically controlled elsewhere under the CSA, any material previously controlled under Controlled Substance Code Number 7360 (marihuana) or under Controlled Substance Code Number 7350 (marihuana extract), that contains 0.3% or less of Δ9-THC on a dry weight basis—*i.e.,* ''hemp'' as that term defined under the AIA—is not controlled. Conversely, any such material that contains greater than 0.3% of Δ9-THC on a dry weight basis remains controlled in schedule I.

In order to meet the AIA's definition of hemp, and thus qualify for the exception in the definition of marihuana, a cannabis-derived product must itself contain 0.3% or less Δ9-THC on a dry weight basis. It is not enough that a product is labeled or advertised as ''hemp.'' The U.S. Food and Drug Administration (FDA) has recently found that many cannabis-derived products do not contain the levels of cannabinoids that they claim to contain on their labels.[1] Cannabis-derived products that exceed the 0.3% Δ9-THC limit do not meet the statutory definition of ''hemp'' and are schedule I controlled substances, regardless of claims made to the contrary in the labeling or advertising of the products.

In addition, the definition of hemp does not automatically exempt any product derived from a hemp plant, regardless of the Δ9-THC content of the derivative. In order to meet the definition of ''hemp,'' and thus qualify for the exemption from schedule I, the derivative must not exceed the 0.3% Δ9-THC limit. The definition of ''marihuana'' continues to state that ''*all* parts of the plant Cannabis sativa L.,'' and ''*every* compound, manufacture, salt, derivative, mixture, or preparation of such plant,'' are schedule I controlled substances unless they meet the definition of ''hemp'' (by falling below the 0.3% Δ9-THC limit on a dry weight basis) or are from exempt parts of the plant (such as mature stalks or non-germinating seeds). *See* 21 U.S.C. 802(16) (emphasis added). As a result, a cannabis derivative, extract, or product that exceeds the 0.3% Δ9-THC limit is a schedule I controlled substance, even if the plant from which it was derived contained 0.3% or less Δ9-THC on a dry weight basis.

[1] *See* FDA, Warning Letters and Test Results for Cannabidiol-Related Products, *https://www.fda.gov/NewsEvents/PublicHealthFocus/ucm484109.htm.*

Finally, nothing in the AIA or in these implementing regulations affects or alters the requirements of the Food, Drug, & Cosmetic Act (FD&C Act). *See* 7 U.S.C. 1639r(c). Hemp products that fall within the jurisdiction of the FD&C Act must comply with its requirements. FDA has recently issued a statement regarding the agency's regulation of products containing cannabis and cannabis-derived compounds, and DEA refers interested parties to that statement, which can be found at *https://www.fda.gov/newsevents/Newsroom/PressAnnouncements/ucm628988.htm.*

Changes to the Definition of Tetrahydrocannabinols

The AIA also modified the listing for tetrahydrocannabinols under 21 U.S.C. 812(c) by stating that the term tetrahydrocannabinols does not include tetrahydrocannabinols in hemp. Specifically, 21 U.S.C. 812(c) Schedule I now lists as schedule I controlled substances: ''Tetrahydrocannabinols, except for tetrahydrocannabinols in hemp (as defined under section 1639*o* of Title 7).''

Therefore, the AIA limits the control of tetrahydrocannabinols (for Controlled Substance Code Number 7370). For tetrahydrocannabinols that are naturally occurring constituents of the plant material, Cannabis sativa L., any material that contains 0.3% or less of Δ9-THC by dry weight is not controlled, unless specifically controlled elsewhere under the CSA. Conversely, for tetrahydrocannabinols that are naturally occurring constituents of Cannabis sativa L., any such material that contains greater than 0.3% of Δ9-THC by dry weight remains a controlled substance in schedule I.

The AIA does not impact the control status of synthetically derived tetrahydrocannabinols (for Controlled Substance Code Number 7370) because the statutory definition of ''hemp'' is limited to materials that are derived from the plant Cannabis sativa L. For synthetically derived tetrahydrocannabinols, the concentration of Δ9-THC is not a determining factor in whether the material is a controlled substance. All synthetically derived tetrahydrocannabinols remain schedule I controlled substances.

This rulemaking is modifying 21 CFR 1308.11(d)(31) to reflect this statutory change. By this rulemaking, 21 CFR 1308.11(d)(31) is being modified via the addition of subsection (ii), which reads: ''Tetrahydrocannabinols does not include any material, compound, mixture, or preparation that falls within the definition of hemp set forth in 7 U.S.C. 1639*o.*''

Removal of Schedule V Control of FDA-Approved Products Containing Cannabidiol

Previously DEA, pursuant to 21 CFR 1308.15, separately controlled in Schedule V drug products in finished dosage formulations that have been approved by FDA and that contain cannabidiol (CBD) derived from cannabis and no more than 0.1 percent (w/w) residual tetrahydrocannabinols (under Controlled Substance Code Number 7367). The FDA-approved substances described under Drug Code 7367 are no longer controlled, by virtue of the AIA. As a result, DEA is removing the listing for ''Approved cannabidiol drugs'' under schedule V in 21 CFR 1308.15.

Note that CBD in a mixture with a Δ9-THC concentration greater than 0.3% by dry weight is not exempted from the definition of ''marihuana'' or ''tetrahydrocannabinols.'' Accordingly, all such mixtures exceeding the 0.3% limit remain controlled substances under schedule I.

Removal of Import/Export Provisions Involving FDA-Approved Products Containing CBD

Previously DEA, pursuant to 21 CFR 1312.30, required import and export permits pursuant to 21 U.S.C. 811(d)(1), 952(b)(2), and 953(e)(3) for the import and export of drug products in finished dosage formulations that have been approved by FDA and that contain CBD derived from cannabis and no more than 0.1 percent (w/w) residual tetrahydrocannabinols. Because such substances are no longer controlled substances, DEA is likewise removing the import and export permit requirement for these substances. The regulation is revised to delete § 1312.30(b).

Drug Code 7350 for Marihuana Extract

The current control status of marihuana-derived constituents depends upon the concentration of Δ9-THC in the constituent. DEA is amending the scope of substances falling within the Controlled Substances Code Number for marihuana extract (7350) to conform to the amended definition of marihuana in the AIA. As amended, the Drug Code 7350 definition reads:

Marihuana Extract—meaning an extract containing one or more cannabinoids that has been derived from any plant of the genus Cannabis, containing greater than 0.3 percent delta-9-tetrahydrocannabinol on a dry weight

basis, other than the separated resin (whether crude or purified) obtained from the plant.

21 CFR 1308.11(d)(58). The drug code 7350 became effective on January 13, 2017. 81 FR 90194.

Regulatory Analysis

Administrative Procedure Act

An agency may find good cause to exempt a rule from certain provisions of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring the publication of a prior notice of proposed rulemaking and the pre-promulgation opportunity for public comment, if such actions are determined to be unnecessary, impracticable, or contrary to the public interest.

DEA finds there is good cause within the meaning of the APA to issue these amendments as an interim final rule and to delay comment procedures to the post-publication period, because these amendments merely conform the implementing regulations to recent amendments to the CSA that have already taken effect. DEA has no discretion with respect to these amendments. This rule does no more than incorporate the statutory amendments into DEA's regulations, and publishing a notice of proposed rulemaking or soliciting public comment prior to publication is unnecessary. *See* 5 U.S.C. 553(b)(B) (relating to notice and comment procedures). ''[W]hen regulations merely restate the statute they implement, notice-and-comment procedures are unnecessary.'' *Gray Panthers Advocacy Committee* v. *Sullivan,* 936 F.2d 1284, 1291 (D.C. Cir. 1991); *see also United States* v. *Cain,* 583 F.3d 408, 420 (6th Cir. 2009) (contrasting legislative rules, which require notice-and-comment procedures, ''with regulations that merely restate or interpret statutory obligations,'' which do not); *Komjathy* v. *Nat. Trans. Safety Bd.,* 832 F.2d 1294, 1296 (D.C. Cir. 1987) (when a rule ''does no more than repeat, virtually verbatim, the statutory grant of authority'' notice-and-comment procedures are not required).

In addition, because the statutory changes at issue have already been in effect since December 20, 2018, DEA finds good cause exists to make this rule effective immediately upon publication. *See* 5 U.S.C. 553(d). Therefore, DEA is issuing these amendments as an interim final rule, effective upon publication in the **Federal Register**.

Although publishing a notice of proposed rulemaking and soliciting public comment prior to publication are unnecessary in this instance because these regulations merely implement statutory changes over which the agency has no discretion, DEA is soliciting public comment on this rule following its publication. For that reason, DEA is publishing this rule as an interim final rule and is establishing a docket to receive public comment on this rule. To the extent required by law, DEA will consider and respond to any relevant comments received.

Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 13771 (Reducing Regulation and Controlling Regulatory Cost)

This interim final rule was developed in accordance with the principles of Executive Orders (E.O.) 12866, 13563, and 13771. E.O. 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). E.O. 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in E.O. 12866. E.O. 12866 classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, 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 set forth in the E.O.

The economic, interagency, budgetary, legal, and policy implications of this interim final rule have been examined and it has been determined that it is not a significant regulatory action under E.O. 12866 because it is a non-discretionary action that is dictated by the statutory amendments to the CSA enacted by the AIA. While not determined to be a significant regulatory action, this action has been reviewed by the OMB.

As explained above, DEA is obligated to issue this interim final rule to revise its regulations so that they are consistent with the provisions of the CSA that were amended by the AIA. In issuing this interim final rule, DEA has not gone beyond the statutory text enacted by Congress. Thus, DEA would have to issue this interim final rule regardless of the outcome of the agency's regulatory analysis. Nonetheless, DEA conducted this analysis as discussed below.

Summary of Benefits and Costs

This analysis is limited to the provisions of the AIA that are being directly implemented by this DEA interim final rule. DEA has reviewed these regulatory changes and their expected costs and benefits. Benefits, in the form of cost savings realized by DEA registrants handling previously controlled substances, will be generated as a direct result of the publication of this interim final rule. DEA does not expect there to be any costs associated with the promulgation of this interim final rule. The following is a summary; a detailed economic analysis of the interim final rule can be found in the rulemaking docket at *http://www.regulations.gov.*

The AIA's revised definitions of marihuana and tetrahydrocannabinols effectively decontrol hemp as defined under the AIA. DEA's regulatory authority over any plant with less than 0.3% THC content on a dry weight basis, and any of the plant's derivatives under the 0.3% THC content limit, is removed as a result. It is important to note, however, that this does not mean that hemp is not under federal regulatory oversight. The AIA directs the U.S. Department of Agriculture (USDA) to review and approve commercial hemp production plans developed by State, territory, and Indian tribal agencies and to develop its own production plan. 7 U.S.C. 1639p, 1639q. Until these regulations are finalized, State commercial hemp pilot programs authorized under the 2014 Farm Bill are still in effect and current participants may proceed with plans to grow hemp while new regulations are drafted.[2] DEA expects the USDA to assess the costs and benefits of this new regulatory apparatus once those rules are finalized. For these reasons, DEA considers any potential costs or benefits broadly related to changes in the domestic industrial hemp market due to the

[2] *See* USDA, Hemp Production Program Questions and Answers, *https://www.ams.usda.gov/publications/content/hemp-production-program-questions-and-answers.*

decontrol of hemp, including but not limited to the expansion in the number of producers, consumer products, and the impact on supply chains to be outside the scope of this analysis.

To determine any cost savings resulting from this decontrol action, DEA analyzed its registration, import, and export data. The removal of DEA's regulatory authority over hemp as defined under the AIA will impact only DEA registrants that currently import viable hemp seed intended for germination. Viable hemp seed was classified as a schedule I controlled substance prior to the amendments to the CSA enacted by the AIA. The importation and exportation of controlled substances requires an importer or exporter to first register with DEA, and then apply and obtain a permit to import or export controlled substances for each shipment.[3] The decontrol of hemp with this interim final rule means that viable hemp seed is no longer subject to those schedule I requirements, as long as the material contains less than the 0.3% limit.

Based on the number of import and export permits issued, DEA estimated the number of import and export permit applications that would no longer be needed. DEA reviewed internal data tracking the number of imports and exports for hemp seed over a three year period beginning January 1, 2016 and ending December 31, 2018.[4] During this three year period, there was an average of 88 import permits issued for hemp seed per year, and no exports. These import permits were issued only to participants in state commercial hemp pilot programs, including state departments of agriculture and higher education institutions, which are considered ''fee exempt'', and do not pay the $1,523 annual importer registration fee.[5] However, fee-exempt institutions are still required to obtain a DEA registration and renew that registration annually by filling out and submitting DEA form 225a. DEA expects these institutions to relinquish their schedule I importer registrations as a result of the promulgation of this interim final rule.

DEA estimates the average annual cost savings attributable to the elimination of import permits for hemp seed, and the elimination of annual registration renewals for hemp seed importers to be $3,225.[6] This cost savings is realized entirely by DEA registrants. Since the anticipated reduction in import permits and registration renewals being processed is negligible relative to the total amount of permits and renewals processed by DEA annually, DEA is not expected to experience a measurable decrease in workflow or use of resources, and therefore, will incur no cost savings. The results of this analysis are summarized below:

Average Annual Import Permit Application (DEA Form 357) Cost Savings	
Estimated hourly wage ($/hour): [7]	$45.54
Load for benefits (percent of labor rate): [8]	*43%*
Loaded labor rate ($/hour): [9]	$65.06
Average hourly burden, per application:	0.25
Average annual # of import permit applications for hemp seed:	88
Average annual hemp seed import permit application labor costs: [10]	$1,431.32
Average annual mailing cost of hemp seed import permit applications: [11]	$1,579.50
Annual Registration Renewal Application (DEA Form 225a) Cost Savings	
Estimated hourly wage ($/hour): [12]	$59.56
Load for benefits (percent of labor rate): [13]	*43%*
Loaded labor rate ($/hour): [14]	$85.09
# of Importers no longer requiring registration:	21
Average hourly burden, per application: [15]	0.12
Average annual registration renewal application labor cost: [16]	$214.43
Total Annual Cost Savings:	$3,225.25

This interim final rule removes FDA-approved products containing CBD from schedule V control, including controls over the importation and exportation of this class of drugs. There is currently only one drug that meets these criteria for decontrol.[17] To determine any cost savings resulting from this decontrol action, DEA analyzed its registration, import, and export data. DEA believes all entities that currently handle FDA-approved CBD products also handle other controlled substances. This means the decontrol of this product will not allow these DEA registrants to benefit from any registration-related cost savings. However, like importers of viable hemp seed, importers and exporters of FDA-approved CBD products will no longer be required to obtain import and export permits from DEA.

DEA analyzed its internal import and export data to identify the average

[3] *See* 21 CFR 1312.11(a), 1312.21(a).

[4] DEA import data is organized by drug code. Hemp seed falls within drug code ''7360—Marihuana''.

[5] *See* 21 CFR 1301.21(a)(1).

[6] Rounded down to the nearest whole dollar.

[7] Median hourly wage, Bureau of Labor Statistics, Occupational and Employment and Wages, May 2018, 11–3071 Transportation, Storage, and Distribution Managers (*http://www.bls.gov/oes/current/oes_nat.htm*). The DEA considers this occupational category to be representative of the type of employee that is likely to fill out and submit import permits on behalf of a DEA registered importer.

[8] Bureau of Labor Statistics, ''Employer Costs for Employee Compensation—March 2019'' (ECEC) reports that average benefits for private industry is 30% of total compensation. The 30% of total compensation equates to 42.86% (30% / 70%) load on wages and salaries.

[9] $45.54 × (1 + 0.4286) = $65.06.

[10] ($65.06 × 0.25) × 88 = $1,431.32.

[11] 91% of import permits are submitted via paper form and delivered to DEA by an express carrier with respondent-paid means for return delivery. The estimated cost burden is $19.50 per response: 2 × $9.75 = $19.50. $9.75 is based on a major express carrier's national 3-day flat rate for envelopes. The DEA assumes that 91% of import permits submitted in any given year incur this mailing cost.

[12] Estimates are based on the population of the regulated industry participating in these business activities. The DEA assumes that a general and operations manager (11–1021, 2018 Standard Occupational Classification) will complete the form on behalf of the applicant or registrant.

[13] Bureau of Labor Statistics, ''Employer Costs for Employee Compensation—March 2019'' (ECEC) reports that average benefits for private industry is 30% of total compensation. The 30% of total compensation equates to 42.86% (30% / 70%) load on wages and salaries.

[14] $59.56 × (1 + 0.4286) = $85.09.

[15] The DEA assumes all forms are submitted online.

[16] ($85.09 × 0.5) × 21 = $214.43.

[17] *See* FDA, Regulation of Cannabis and Cannabis-Derived Products: Questions and Answers, *https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-questions-and-answers#approved.*

number of permits issued for FDA-approved CBD products over a three year period beginning January 1, 2016 and ending December 31, 2018. During this period there was an average of 52 import permits and one export permit issued per year, the elimination of which will result in an average annual cost savings of $1,814.[18] This cost savings is realized entirely by DEA registrants. Since the anticipated reduction in import and export permits being processed is negligible relative to the total number of permits processed by DEA annually, DEA is not expected to experience a measurable decrease in workflow or use of resources, and therefore, will incur no cost savings. The results of this analysis are summarized below:

Average Annual Import Permit Application (DEA Form 357) Cost Savings	
Estimated hourly wage ($/hour): [7]	$45.54
Load for benefits (percent of labor rate): [8]	*43%*
Loaded labor rate ($/hour): [9]	$65.06
Average hourly burden, per application:	0.25
Average annual # of import permit applications for FDA-approved CBD:	52
Average annual FDA-approved CBD import permit application labor costs: [19]	$845.74
Average annual mailing cost for import permit applications: [11 20]	$916.50
Average Annual Export Permit Application (DEA Form 161) Cost Savings	
Estimated hourly wage ($/hour): [7]	$45.54
Load for benefits (percent of labor rate): [8]	*43%*
Loaded labor rate ($/hour): [9]	$65.06
Average hourly burden, per collection:	0.5
Average annual # of export permit applications for FD-approved CBD:	1
Average annual FDA-approved CBD export permit application labor costs: [21]	$32.53
Average annual mailing cost of export permit applications: [11]	$19.50
Total Annual Cost Savings:	$1,814.27

This interim final rule amends the definition of marihuana extract to conform to the revised definitions of marihuana and tetrahydrocannabinols. This revised definition now includes the 0.3%-THC content limit for the extract, meaning hemp-derived extracts containing less than 0.3%-THC content are also decontrolled along with the plant itself. As discussed previously, the production of hemp and its extracts as defined under the AIA now falls under the same regulatory oversight shared between the States, territories, and Indian tribal agencies, and the USDA. The FDA also affirms its regulatory oversight over cannabis-derived compounds, such as CBD, whether or not these compounds are ''classified as hemp under the 2018 Farm Bill.'' [22] For these reasons, DEA considers any potential costs or benefits broadly related to changes in the markets for domestic hemp extracts due to their decontrol, including but not limited to the expansion in the number of producers, consumer products, and the impact on supply chains to be outside the scope of this analysis.

Like FDA-approved CBD products and viable hemp seeds, entities no longer require a DEA registration or import and export permits to handle hemp extract that does not exceed the statutory 0.3% THC limit. DEA's import and export data does capture a minimal number of instances of the importation and exportation of CBD; however, this data does not detail whether or not the CBD was derived from Cannabis sativa L. plants containing less than 0.3% THC content. For this reason, DEA does not have a good basis to estimate the annual number of imported or exported hemp-derived extracts that no longer require permits as a result of the promulgation of this interim final rule, but after reviewing its data, believes this number to be minimal. Therefore, DEA concludes that this provision of the interim final rule is likely to result in a minimal benefit to DEA registrants, but DEA does not have a good basis to quantify this amount.

As part of its core function, DEA's Diversion Control Division is responsible for managing over 1.8 million DEA registrations, processing new and renewal registration applications, processing registration modification requests, issuing certificates of registration, issuing import and export permits, issuing renewal notifications, conducting due diligence, maintaining and operating supporting information systems, etc. Therefore, DEA does not anticipate it will realize any measurable cost savings to the government as a result of the negligible decreases in registrant services resulting from the promulgation of this interim final rule.

As described above, DEA estimates the average annual benefit in the form of cost savings to DEA registrants as a result of the promulgation of this interim final rule to be $5,039.[23] DEA calculated the present value of this cost savings over a 20 year period at a 3 percent and 7 percent discount rate. At a 3 percent discount rate, the present value of benefits is $74,968, while the present value of costs is $0, making the net present value (NPV) $74,968. At a 7 percent discount rate, the present value of benefits is $53,383, the present value of costs is $0, making the NPV is $53,383.[24] The table below summarizes the present value and annualized benefit calculations.

Discount Rate	3%	7%
Annual benefit ($)	5,039	5,039
Present value of benefits ($)	74,968	53,383
Present value of costs ($)	0	0
Years	20	20

[18] Rounded down to the nearest whole number.

[19] ($65.06 × 0.25) × 52 = $845.74.

[20] 52 × .91 = 47 (rounded down) permits mailed per year; 47 × $19.50 = $916.50.

[21] ($65.06 × 0.5) × 1 = $32.53.

[22] Ibid.

[23] The total average annual cost savings resulting from the decontrol of viable hemp seed ($3,225) and FDA-approved CBD products ($1,814).

[24] *See* Office of Mgmt. & Budget, Exec. Office of the President, OMB Circular A–4, Regulatory Analysis (2003).

Net present value ($)	74,968	53,383

Figures are rounded.

E.O. 13771 deregulatory actions are final actions that have totals costs less than zero. Also, under E.O. 13771, regulatory actions that expand production options, which are considered to be ''enabling rules,'' generally qualify as E.O. 13771 deregulatory actions. This interim final rule decontrols hemp, hemp extracts and FDA-approved products containing CBD, and it results in cost savings to the public, as discussed above. Accordingly, DEA has determined that this interim final rule is an E.O. 13771 Deregulatory Action.

Executive Order 12988

This interim final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burdens.

Executive Order 13132

This rulemaking does not preempt or modify any provision of State law, impose enforcement responsibilities on any State, or diminish the power of any State to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of E.O. 13132.

Executive Order 13175

This interim final rule is required by statute, and will not have tribal implications or impose substantial direct compliance costs on Indian tribal governments.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) applies to rules that are subject to notice and comment under section 553(b) of the Administrative Procedure Act (5 U.S.C. 553). As explained in the interim final rule, DEA determined that there was good cause to exempt this interim final rule from pre-publication notice and comment. Consequently, the RFA does not apply to this interim final rule.

Paperwork Reduction Act of 1995

This interim final rule does not involve a collection of information within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–21.

Unfunded Mandates Reform Act of 1995

This interim final rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $136,000,000 or more (adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995. 2 U.S.C. 1532.

Congressional Review Act

This interim final rule is not a major rule as defined by the Congressional Review Act (CRA) (5 U.S.C. 804). DEA is submitting the required reports with a copy of this interim final rule to both Houses of Congress and to the Comptroller General.

List of Subjects

21 CFR Part 1308

Administrative practice and procedure; Drug traffic control; Reporting and recordkeeping requirements.

21 CFR Part 1312

Administrative practice and procedure; Drug traffic control; Exports; Imports; Reporting and recordkeeping requirements.

For the reasons set forth above, 21 CFR parts 1308 and 1312 are amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b).

■ 2. In § 1308.11, paragraphs (d)(31) and (58) are revised to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(31) Tetrahydrocannabinols 7370

(i) Meaning tetrahydrocannabinols, except as in paragraph (d)(31)(ii) of this section, naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:

1 cis or trans tetrahydrocannabinol, and their optical isomers

6 cis or trans tetrahydrocannabinol, and their optical isomers

3, 4 cis or trans tetrahydrocannabinol, and its optical isomers

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(ii) Tetrahydrocannabinols does not include any material, compound, mixture, or preparation that falls within the definition of hemp set forth in 7 U.S.C. 1639*o*.

* * * * *

(58) Marihuana Extract 7350

Meaning an extract containing one or more cannabinoids that has been derived from any plant of the genus Cannabis, containing greater than 0.3% delta-9-tetrahydrocannabinol on a dry weight basis, other than the separated resin (whether crude or purified) obtained from the plant.

* * * * *

§ 1308.15 [Amended]

■ 3. In § 1308.15, paragraph (f) is removed.

PART 1312—IMPORTATION AND EXPORTATION OF CONTROLLED SUBSTANCES

■ 4. The authority citation for part 1312 continues to read as follows:

Authority: 21 U.S.C. 821, 871(b), 952, 953, 954, 957, 958.

§ 1312.30 [Amended]

■ 5. In § 1312.30, paragraph (b) is removed and reserved.

Timothy J. Shea,

Acting Administrator.

[FR Doc. 2020–17356 Filed 8–20–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

32 CFR Part 625

[Docket ID: USA–2020–HQ–0010]

RIN 0702–AA98

Surface Transportation—Administrative Vehicle Management

AGENCY: U.S. Army Corps of Engineers, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: This final rule removes the U.S. Army Corps of Engineers' part titled Surface Transportation—Administrative Vehicle Management. This part is out-of-date and otherwise covers internal agency operations that have no public compliance component or adverse public impact. Therefore, this part can be removed from the CFR.

DATES: This rule is effective on August 21, 2020.

ADDRESSES: Department of the Army, U.S. Army Corps of Engineers, ATTN: CECW–P (Ms. Patricia Mutschler), 441 G Street NW, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Mutschler at 202–761–4744 or by email at *Patricia.L.Mutschler@usace.army.mil.*

SUPPLEMENTARY INFORMATION: This final rule removes the U.S. Army Corps of Engineers' 32 CFR part 625, Surface Transportation—Administrative Vehicle Management. The solicitation of public comment is unnecessary as each removed section in this part is out-of-date and otherwise covers internal agency operations that have no public compliance component or adverse public impact. The regulation was initially promulgated on November 2, 1979 (44 FR 63099) to provide guidance and authorize dependents to accompany a Corps employee on Temporary Duty (TDY) in a Government-owned or leased motor vehicle. The regulation was promulgated for transparency purposes despite the content being directed solely to the issuing agency with no impact to the public.

The removal of 32 CFR part 625 will bring the U.S. Army Corps of Engineers into compliance with DoD Manual 4500.36, ''Acquisition, Management, and Use of DoD Non-Tactical Vehicles'' (available at *https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/450036m.pdf?ver=2018-12-20-085741-153*); and Army Regulation 58–1, ''Management, Acquisition, and Use of Motor Vehicles'' (available at *https://api.army.mil/e2/c/downloads/455098.pdf*), which do not allow for the transportation of dependents in non-tactical vehicles provided for DoD personnel when on Temporary Duty (TDY).

This removal is being conducted to provide clarity and reduce confusion for the public as well as for the Corps regarding the current policy which governs the Corps' use of non-tactical vehicles. The removal of the regulation will ensure the Corps' policy complies with existing DoD and Army internal agency guidance which has no future effect on the behavior of regulated parties and which can be found at the sources provided in this **SUPPLEMENTARY INFORMATION** section. In an effort to reduce the number of regulations the Corps has promulgated, the removal of an out-of-date regulation which is also out of compliance with current agency policy is appropriate. The regulation does not place a burden on the public; therefore, its removal does not provide a reduction in public burden or costs.

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

This removal supports a recommendation of the DoD Regulatory Reform Task Force.

List of Subjects in 32 CFR part 625

Engineers Corps, Government employees, Government property management, Motor vehicles.

Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps of Engineers removes 32 CFR part 625.

Dated: July 28, 2020.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2020–16695 Filed 8–20–20; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2020–0518]

RIN 1625–AA08

Special Local Regulation; Cumberland River, Hendersonville, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is issuing a marine event permit for the Waddle & Reed Inc. Boat in Movie, and establishing a temporary special local regulation for navigable waters on the Cumberland River from mile marker (MM) 236.0 to MM 237.5. The special local regulation is needed to protect personnel, vessels, and the marine environment from potential hazards created by the Boat in Movie night on August 22, 2020. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley.

DATES: This rule is effective without actual notice from 7:30 p.m. until 9:30 p.m. on August 22, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2020–0518 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 Petty Officer First Class Nicholas Jones, Marine Safety Detachment Nashville, U.S. Coast Guard; telephone 615–736–5421, email *Nicholas.J.Jones@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 of the hazards associated with the Boat in Movie night, and the need to address public safety via the implementation of a special local regulation. It is impracticable to publish an NPRM because we must establish this special local regulation by August 22, 2020.

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.

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 Sector Ohio Valley

(COTP) has determined that potential hazards associated with the Boat in Movie night marine event will be a safety concern, and is establishing a special local regulation from mile marker (MM) 236.0 to 237.5 on the Cumberland River. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters for the duration of the event.

IV. Discussion of the Rule

This rule establishes a special local regulation from 7:30 p.m. until 9:30 p.m. on August 22, 2020. The special local regulation will cover all navigable waters between miles 236.0 to 237.5 on the Cumberland River. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters for the duration of the event. No vessel or person will be permitted to enter the regulated zone 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, location, duration, and time-of-day of the special local regulation. This special local regulation restricts transit on a one and a half-mile segment of the Cumberland River for two hours on one day. Moreover, the Coast Guard would issue Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and Marine Safety Information Bulletins (MSIBs) about this special local regulation so that waterway users may plan accordingly for this short restriction on transit, and the rule would allow vessels to request 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 special local regulation may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

This rule 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 contact 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 a special local regulation lasting two hours that will prohibit entry from mile 236.0 to 237.5 on the Cumberland River. It is categorically excluded from further review under paragraph L61 in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. 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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

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

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

PART 100—REGATTAS AND MARINE PARDES

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

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

■ 2. Add § 100.T08–0518 to read as follows:

§ 100.T08–0518 Special Local Regulation; Cumberland River, Hendersonville, TN

(a) *Location.* The Cumberland River, miles 236.0 to 237.5.

(b) *Periods of enforcement.* This temporary special local regulation will be enforced from 7:30 p.m. until 9:30 p.m. on August 22, 2020.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP) or designated personnel. Moreover, persons or vessels desiring to enter into or pass through the zone must request permission from the COTP Sector Ohio Valley or a designated representative. They may be contacted on VHF-FM radio channel 16 or phone at 1–800–253–7465

(2) Persons and vessels permitted to deviate from the special local regulation requirements as well as enter the restricted area must transit at the slowest safe speed and comply with all lawful directions issued by the COTP Sector Ohio Valley or a designated representative.

(d) *Informational broadcasts.* The COTP Sector Ohio Valley or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the special local regulation, as well as any changes in the dates and times of enforcement.

Dated: August 14, 2020.

A.M. Beach,

Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2020–18316 Filed 8–20–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2020–0415]

RIN 1625–AA00

Emergency Safety Zone; Lower Mississippi River, Rosedale, MS

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for emergency purposes for all waters of the Lower Mississippi River (LMR), extending from River Mile Marker (MM) 592.0 to MM 595.0. The emergency safety zone is needed to protect persons, property, infrastructure, and the marine environment from the potential safety hazards associated with the salvage and diving effort of two sunken barges at MM 593.5, in the vicinity of the Victoria Bend Revetment, Rosedale, Mississippi. Deviation from the safety zone is prohibited unless specifically authorized by the Captain of the Port Lower Mississippi River or a designated representative.

DATES: This rule is effective without actual notice from August 21, 2020 through August 31, 2020, or until all salvage and diving work is complete, whichever occurs earlier. For purposes of enforcement, actual notice will be used from August 3, 2020 through August 21, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2020–0415 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 LT Adam J. Paz, U.S. Coast Guard; telephone 901–521–4825, email *adam.j.paz@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
LMR Lower Mississippi River
MM River Mile Marker
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 salvage efforts for two sunken barges mid-river will impede the safe navigation of vessel traffic, and immediate action is needed to protect persons and property. Completing the full NPRM process is impracticable because we must establish this safety zone by August 3, 2020.

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 respond to the potential safety hazards associated with salvage operations in the vicinity of Victoria Bend Revetment.

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 (COTP) Lower Mississippi River (LMR) has determined that potential hazards associated with the salvage of two sunken barges will be a safety concern for anyone within a one and one-half mile radius of the salvage and diving vessels and machinery. This rule is needed to protect persons, property, infrastructure, and the marine environment in all waters of the LMR within the safety zone while the salvage and diving work is being conducted.

IV. Discussion of the Rule

This rule establishes a temporary emergency safety zone from August 3, 2020 through August 31, 2020, or until all salvage and diving work is complete, whichever occurs earlier. The safety zone will cover all waters of the LMR from MM 592.0 to MM 595.0, extending the entire width of the river. The safety

zone will only be activated during daylight hours when salvage work precludes safe navigation of the established channel. The duration of the zone is intended to protect persons, property, infrastructure, and the marine environment in these navigable waters while salvage and diving work is being conducted. No vessel or person will be permitted to enter the safety zone 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, location, and duration of the safety zone. This emergency safety zone will temporarily restrict navigation during daylight hours on the LMR from MM 592.0 to MM 595.0 in the vicinity of Rosedale, Mississippi, from August 3, 2020 through August 31, 2020, or until all salvage and diving work is complete, whichever occurs earlier. The Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 informing the public of the times that the zone will be activated, and the rule would allow vessels to seek permission to enter the zone on a case-by-case basis.

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 temporary emergency safety zone on the LMR from MM 592.0 to MM 595.0, that will prohibit entry into this zone unless permission has been granted by the COTP Lower Mississippi or a designated representative. The safety zone will only be enforced for short durations during daylight hours while salvage and diving work precludes the safe navigation of the established channel. It is categorically excluded from further review under paragraph L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS.

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

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

■ 2. Add § 165.T08–0415 to read as follows:

§ 165.T08–0415 Emergency Safety Zone; Lower Mississippi River, Rosedale, MS.

(a) *Location.* The following area is a safety zone: All waters of the Mississippi River from MM 592.0 to MM 595.0.

(b) *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) To seek permission to enter, contact the COTP or the COTP's representative by telephone or email. 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.

(c) *Enforcement period.* This section will be enforced as needed during daylight hours from August 3, 2020 through August 31, 2020, or until all salvage and diving work is complete, whichever occurs earlier. Periods of activation will be promulgated by Broadcast Notice to Mariners.

Dated: July 30, 2020.

R.S. Rhodes,

Captain, U.S. Coast Guard, Captain of the Port Lower Mississippi River.

[FR Doc. 2020–17482 Filed 8–20–20; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 1, 49, 71, and 124

[EPA–HQ–OGC–2019–0406; FRL 10012–97–OGC]

Streamlining Procedures for Permit Appeals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The action finalizes a procedural rule to streamline and modernize the Environmental Protection Agency's (EPA) permit appeal process and ensure that appeals are decided consistent with the authority delegated from the Administrator by modifying existing procedural requirements and realigning prior delegations. This final procedural rule applies to permits issued by or on behalf of EPA under the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and the Resources Conservation and Recovery Act.

DATES: This final rule is effective on September 21, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OGC–2019–0406. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mark Talty, Office of General Counsel, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; (202) 564–2751; email address: *staff_ogc@epa.gov.*

SUPPLEMENTARY INFORMATION:

Organization of This Document. The following outline is provided to aid in locating information in this preamble.

I. General Information
  A. Does this action apply to me?
  B. What is the Agency's authority for taking this action?
II. Background
  A. What changes did the Agency propose in its December 3, 2019 proposal?
  B. What action is the Agency taking today?
III. Summary of the Final Rule
  A. What are the key elements of this final rule?
  1. Clarifying the EAB's Scope of Review in Permit Appeals
  2. Reforming *Amicus Curiae* Participation
  3. Eliminating *Sua Sponte* Review
  4. Expediting the Appeal Process
  5. 12-Year Terms for EAB Judges
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  7. Administrator's Legal Interpretations
  B. How does this final rule affect pending appeals?
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IV. Statutory and Executive Orders

I. General Information

A. Does this action apply to me?

This rule modifies the rules of practice governing certain administrative appeals handled by the Environmental Appeals Board (EAB) under 40 CFR 124.19 and other regulations listed below. It applies to persons and entities that seek to challenge EPA permitting decisions under the National Pollutant Discharge Elimination System (NPDES) program of the Clean Water Act, the Safe Drinking Water Act's Underground Injection Control (UIC) program, and the Resources Conservation and Recovery Act (RCRA), including Remedial Action Plans, 40 CFR 270.42(f) and 270.155. It also applies to persons or entities that seek to challenge the following EPA permitting decisions under the Clean Air Act: Prevention of Significant Deterioration permits, 40 CFR 52.21(q), Outer Continental Shelf permits, 40 CFR 55.6(a)(3); Title V permits, 40 CFR 71.11(*l*); Tribal Major Non-Attainment NSR permits, 40 CFR 49.172(d)(5); and Tribal Minor NSR permits, 40 CFR 49.159(d).

With exception of section III.A.7 (Administrator's Legal Interpretations) of this preamble, nothing in this proposal affects the EAB's adjudication of enforcement appeals.

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

EPA's authority to issue this procedural rule is contained in Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.;* Safe Drinking Water Act, 42 U.S.C. 300(f) *et seq.;* Clean Water Act, 33 U.S.C. 1251 *et seq.;* and Clean Air Act, 42 U.S.C. 1857 *et seq.* EPA is also issuing this rule under its general housekeeping authority. The Federal Housekeeping Statute provides that ''[t]he head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property.'' EPA is not one of the 15 ''Executive Departments'' listed at 5 U.S.C. 301. However, EPA gained housekeeping authority through the Reorganization Plan No. 3 of 1970, 84 Stat. 2086 (July 9, 1970). The Office of Legal Counsel has opined that the Reorganization Plan ''convey[s] to the [EPA] Administrator all of the housekeeping authority available to other department heads under section 301'' and demonstrates that ''Congress has vested the Administrator with the authority to run

EPA, to exercise its functions, and to issue regulations incidental to the performance of those functions.'' [1]

II. Background

A. What changes did the Agency propose in its December 3, 2019 proposal?

EPA proposed a rule of agency organization, procedure or practice that sought to change the administrative exhaustion requirements for permit appeals, revise existing appeal procedures and provide greater accountability for those exercising delegated authority over administrative appeals more generally. Although not subject to the notice and comment requirements of the Administrative Procedure Act, the Agency nonetheless voluntarily sought comment because it believes that the information and opinions supplied by the public would help inform the Agency's views.

On December 3, 2019, EPA proposed the creation of a new, time-limited alternative dispute resolution process (ADR process) as a precondition to judicial review. Under the proposal, the parties in the ADR process could have agreed by unanimous consent to either extend the ADR process or proceed with an appeal before the Environmental Appeals Board (EAB). If the parties did not agree to proceed with either the ADR process or an EAB appeal, the permit would have become final and could be challenged in federal court. EPA also proposed to amend the appeal process to clarify the scope and standard of EAB review, remove a provision authorizing participation in appeals by amicus curiae, and eliminate the EAB's authority to review Regional permit decisions on its own initiative, even absent an appeal. To promote internal efficiencies, EPA also proposed to establish a 60-day deadline for the EAB to issue a final decision once an appeal had been fully briefed and argued and to limit the length of EAB opinions to only as long as necessary to address the issues raised in an appeal; EPA also proposed to limit the availability of extensions to file briefs. The proposed rule would have applied to permits issued by or on behalf of EPA under the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and the Resources Conservation and Recovery Act.

In addition to these permit appeal reforms, EPA proposed several additional reforms designed to provide tools to better allow the Administrator to exercise his or her statutory authority together with appropriate checks and balances on how the Board exercises its delegated authority. In that vein, EPA proposed to set twelve-year terms for EAB Judges, which the Administrator could renew at the end of that twelve-year period or reassign the Judge to another position within EPA. EPA also proposed a new process to identify which EAB opinions would be considered precedential. Finally, EPA proposed a new mechanism by which the Administrator, by and through the General Counsel, could issue a dispositive legal interpretation in any matter pending before the EAB.

B. What action is the Agency taking today?

EPA is not finalizing the new, time-limited ADR process from the December 3rd proposal, which would have served as a precondition to judicial review. EPA received several comments expressing the view that the proposed process violated the Alternative Dispute Resolution Act by mandating the use of ADR to resolve permit disputes and that the proposed process could, in some instances, lengthen the appeal process. While the comments are not dispositive of the issue, EPA is not finalizing that aspect of the proposal as a matter of its discretion in maintaining a familiar process with accelerated timelines. As a result, nothing in this action changes the current administrative exhaustion requirements, which require permittees and interested parties to file an appeal with the EAB before challenging a permitting decision in federal court. Moreover, nothing in this action changes the EAB's existing ADR program, which will remain available to interested parties. EPA is also not finalizing changes to the appeal process for ocean dumping permit decisions made by Regional Administrators under the Marine Protection, Research, and Sanctuaries Act in 40 CFR 222.12, which already contains expedited appeal procedures. Furthermore, EPA is not finalizing changes to the appeal process for acid rain permits under 40 CFR 78.3(b), which includes the opportunity for evidentiary hearings.

EPA is finalizing each of the changes identified immediately below and described in Section III of this preamble. In addition to describing each of the changes in more detail, the Agency summarizes some of the more significant comments that it received on the proposal and EPA's responses in Section III of this preamble.

First, EPA is clarifying the scope of the EAB's review authority by eliminating a prior provision that allowed the Board to review an exercise of discretion ''or an important policy consideration.'' Under this final rule, the EAB's scope is more aligned with that of federal courts and limited to findings of fact and conclusions of law that are clearly erroneous.

Second, EPA is modifying the process for submission of *amicus curiae* briefs as part of the overall goal of streamlining the appeal process. Under this rule, parties will have 21 days from the filing of a notice of appeal to file *amicus* briefs and the length of such briefs is limited to no more than 15 pages.

Third, EPA is eliminating the EAB's authority to review Regional permit decisions on its own initiative (*sua sponte*), even absent a private party appeal, which has rarely been invoked.

Fourth, EPA is establishing a 60-day deadline for the EAB to issue a final decision once an appeal has been fully briefed and argued. The EAB may grant itself a one-time 60-day extension if it determines that the nature and complexity of the case requires additional time. EPA is also limiting the availability of filing extensions to one request per party, with a maximum extension of 30 days. While nothing in the final rule modifies the EAB's existing discretion to relax or suspend filing requirements for good cause, in keeping with the intent of the revisions, such discretion should be exercised in limited circumstances and based on an adequate finding of good cause.

Fifth, EPA is setting twelve-year terms for EAB Judges, which the Administrator may renew at the end of that twelve-year period or reassign the Judge to another position within EPA consistent with the provisions in 5 CFR 317.901.

Sixth, EPA is establishing a process for designating certain EAB decisions for publication.

EPA is revising the EAB's existing delegation of authority by establishing a mechanism by which the Administrator, by and through the General Counsel, can issue a dispositive legal interpretation in any matter pending before the EAB or on any issue addressed by the EAB.

The revised permit appeal procedures apply only to permitting decisions under:

- The National Pollutant Discharge Elimination System (NPDES) program of the Clean Water Act;
- The Safe Drinking Water Act's Underground Injection Control (UIC) program;
- The Resources Conservation and Recovery Act (RCRA), including

[1] Authority of EPA to Hold Employees Liable for Negligent Loss, Damage, or Destruction of Government Personal Property, 32 O.L.C. 79, 2008 WL 4422366 at *4 (May 28, 2008) (''OLC Opinion'').

Remedial Action Plans, 40 CFR 270.42(f) and 270.155; and

- The Clean Air Act, including Prevention of Significant Deterioration (PSD) permits, 40 CFR 52.21(q); Outer Continental Shelf permits, 40 CFR 55.6(a)(3); Title V permits, 40 CFR 71.11(*l*); Tribal Major Non-Attainment NSR permits, 40 CFR 49.172(d)(5); and Tribal Minor NSR permits, 40 CFR 49.159(d).

The procedural changes in this rule do not apply to other types of appeals not listed above. In addition, with the exception of the proposed revisions above, nothing in this rule alters the mechanics of permit appeals or the process by which parties interact with the EAB, *e.g.,* service requirements.

III. Summary of the Final Rule

A. What are the key elements of this final rule?

1. Clarifying the EAB's Scope of Review in Permit Appeals

EPA proposed to clarify the EAB's *scope* of review while leaving the *standard* of review applied by the EAB untouched. More specifically, EPA proposed to eliminate 40 CFR 124.19(a)(4)(i)(B), which had been viewed as establishing authority for the EAB to review the Agency's compliance with discretionary policies—issues that a federal court generally could not review. EPA is finalizing its proposal to clarify the EAB's scope of review. This final rule makes clear that the EAB's scope of review does not extend to the Agency's compliance with internal discretionary policies or Executive Orders.

Several commenters stated that the proposal arbitrarily limits the EAB's scope of review and ignores the fact that federal courts regularly review exercises of agency discretion to ensure that agencies make such decisions in a rational way based on adequate consideration of all relevant factors. While the Agency agrees with the commenters that federal courts review discretionary policy decisions under an arbitrary and capricious *standard* of review, the Agency's strict compliance with Executive Orders or internal agency policy is generally outside the *scope* of review in federal courts. *See Defs. of Wildlife* v. *Jackson,* 791 F. Supp. 2d 96, 121 (D.D.C. 2011) (''Plaintiffs cannot use the review provisions of the APA to enforce an Executive Order that is not subject to judicial review.''). By eliminating 40 CFR 124.19(a)(4)(i)(B), the Agency is making the scope of EAB's review more akin to that of federal courts.

2. Reforming Amicus Curiae Participation

EPA proposed to eliminate the provision at 40 CFR 124.19(e) that authorizes interested persons to participate in a permit appeal as *amicus curiae* as a means of streamlining the appeal process. Many commenters opposed this proposal by explaining the various benefits that *amicus* participation provides to the appeal process, which include additional viewpoints on particularly complex matters and an avenue for boarder participation among groups with limited resources. In light of the benefits highlighted by the commenters, EPA is retaining the ability for *amicus* participation, but with certain limitations. All *amicus* briefs must be filed within 21 days after the filing of the petition for review and are limited to no more than 15 pages. The 21-day window had previously been imposed on *amicus* participants in PSD and other New Source Review permit appeals under the Clean Air Act but will now apply in all permit appeals under other statutes. This approach preserves the benefits of *amicus* participation while also achieving the goal of streamlining the overall appeal process.

3. Eliminating Sua Sponte Review

EPA is finalizing its proposal to eliminate the EAB's *sua sponte* review authority for permit decisions. As several commenters noted, the EAB has rarely exercised its *sua sponte* authority to review permits. Some commenters asked that EPA clarify that the Board retains its *sua sponte* authority over enforcement decisions. At least one commenter expressed concern that the EAB would no longer be able to review a permit no matter how blatant or how important a permit defect may be.

First and foremost, it is the responsibility of the permit writers to draft permits that achieve the intended results and comply with all legal requirements. Over the course of the last fifty years of writing permits, the Agency has become much better at doing just that. Second, as the commenters suggested, the EAB has rarely used its *sua sponte* authority to review permit appeals, and this rule does not remove the EAB's authority in enforcement cases where it has traditionally exercised such authority.

4. Expediting the Appeal Process

EPA proposed several measures to expedite the appeal process, including limiting filing extensions to one request per party, with a maximum extension of 30 days, establishing a 60-day deadline for the EAB to issue its decision (measured from the date of oral argument or the filing of the last brief, whichever is later) and limiting the length of EAB opinions to only as long as needed to address the specific issues raised in the appeal. EPA solicited comment on whether to set a numerical limit, either in words or pages, on EAB opinions.

EPA received several comments opposed to these expediting reforms, most of which criticized the 60-day deadline for issuing decisions. Generally, the commenters felt the 60-day deadline is arbitrary and lacked justification. One commenter stated that the Agency failed to explain why the Board maintains its ability to adjust filing requirements for good cause but is inflexibly required to issue opinions within 60 days.

EPA is finalizing the 60-day deadline for the EAB to issue a decision, with the deadline measured from the date of oral argument or the filing of the last brief, whichever is later. However, in light of the comments it received, the EAB may grant itself a one-time 60-day extension if the Board determines that the nature and complexity of the case requires additional time. While EPA concedes that any deadline assumes some amount of arbitrariness, such deadlines are routinely created in statutes and regulations based on policy choices that favor timely decision-making and resolution of issues in lieu of open-ended processes. EPA believes that a 60-day deadline, with the availability of an additional 60-day extension, is reasonable in light of the additional reforms contained in this rule.

EPA is also finalizing the two additional expediting measures as proposed. The EAB is required to make its opinions only as long as needed to address the specific issues raised in the appeal. This reform is consistent with the deadline imposed on the Board for issuing decisions and should assist the EAB in achieving those deadlines. Additionally, this final rule limits filing extensions to one request per party, with a maximum extension of 30 days that the EAB, in the exercise of its discretion, may choose to grant. Nothing in this final rule eliminates the EAB's discretion to relax or suspend filing requirements for good cause.

5. 12-Year Terms for EAB Judges

EPA proposed setting 12-year renewable terms for EAB judges. EPA sought comments on this proposed term limit and whether 8 years or another time period was more appropriate. At least one commenter supported the creation of renewable terms but thought

shorter terms were more appropriate. The Agency also received comments opposed to any term for EAB judges. These commenters asserted there is no rationale for why EAB judges should be treated any differently from other career Senior Executive Service (SES) positions and that the proposal unnecessarily politicizes the EAB. One commenter argued that the proposal was illegal because SES positions are governed by a specific statute implemented by the Office of Personnel Management (OPM) and that OPM has the sole authority to determine conditions of service for SES employees.

EPA disagrees with those commenters that opposed the proposed term limit. The EAB, and its individual judges, exercise authority expressly delegated to it from the Administrator by Title 40 of the Code of Federal Regulations. 40 CFR 1.25(e)(2). An EAB judge plays an important role in shaping the decisions of the Agency, and while that role has traditionally been viewed with a certain amount of independence, each judge is acting on the express delegation of the Administrator's authority. It is entirely consistent with that delegation that the Administrator have some express mechanism of accountability over those exercising such authority. The 12-year renewable terms routinize the review of the Board's composition. By setting the terms at 12 years and staggering their implementation in 3-year increments, any one Administrator is limited in the number appointments he or she could make (barring a vacancy due to resignation), provided the Administrator elected not to renew a given term.

EPA also disagrees that the term limits are illegal. As members of the SES, an EAB judge is subject to reassignment to any other SES position in the Agency for which he or she qualifies. *See* 5 U.S.C. 3395 (''Reassignment and transfer within the Senior Executive Service''); 5 CFR 317.901 (''Reassignments''); *see also Guide to the Senior Executive Service* (March 2017), page 10.[2] The 12-year term is not a separate condition applied to SES employees. It is simply a mechanism by which the Administrator can exercise his or her authority consistent with the applicable SES procedures. If the Administrator chooses not to renew an appointment, the Administrator can assign that judge to another SES position within EPA for which he or she qualifies, provided the Administrator reassigns the judge in compliance with all applicable SES procedures. *See* 5 CFR 317.901.

For these reasons, EPA is setting fixed twelve-year terms for EAB Judges, which the Administrator may renew at the end of that twelve-year period or reassign the Judge to another SES position within EPA. For purposes of clarity, the final rule includes additional regulatory text that explicitly requires the Administrator to follow the proper SES requirements when reassigning an EAB judge. To implement the 12-year terms and ensure that they are on a staggered schedule, the Administrator will apply the twelve-year terms to the current EAB judges on a rolling basis over the next twelve years. Each seat on the EAB is designated a number based on the seniority of the Board's current members. The seat of the longest serving judge is designated as seat one, the second longest serving judge as seat two, the third longest serving judge as seat three, and the most recent judge as seat four. If any of the four seats are vacant as of the effective date of the final rule, any such seat will be designated a number based on the date on which it became vacant, after seats have been designated for current judges. The term for the newly designated seat one ends three years after the effective date of the final rule. The process then continues at three-year intervals, with seat two ending six years after the effective date, seat three ending nine years after the effective date, and seat four ending twelve years after the effective date. Thereafter, all terms will last for twelve years. If a judge vacates his or her position before the end of the judge's term, the Administrator will appoint a new judge to serve for the remainder of the vacated term. That new member could then be renewed at the end of the vacated term.

6. Designating EAB Decisions for Publication

EPA sought comment on whether it should create a process to explicitly identify certain decisions of the EAB as precedential. The proposal noted that under such a process, only published decisions could be considered precedential and the determination of which decisions should be published would made by the Administrator.

EPA is finalizing a process that maintains the EAB's existing practice of distinguishing between published decisions and unpublished final orders with one important change: The publication of any decision designated for publication by the EAB is delayed for 15 days. During this period, the Administrator may review the decision and change the designation to an unpublished final order. Moving forward, it is the express policy of the Agency that only published decisions of the EAB represent EPA's official, authoritative position with regard to the issues addressed in such decisions. This change is intended to indicate to reviewing courts that only published EAB decisions may warrant deference under *Kisor* v. *Wilkie,* 139 S. Ct. 2400 (2019) and *Chevron U.S.A., Inc.* v. *Natural Resources Defense Council, Inc.,* 467 U.S. 837 (1984). This new process will therefore provide the Administrator, as the original source of authority for implementing and interpreting EPA's statutes and regulations, the ability to ensure EAB opinions reflect the Agency's official position concerning major policy or procedural issues, or other issues of exceptional importance in the situations where it is appropriate to create such positions through adjudication before the Board.

7. Administrator's Legal Interpretations

EPA is finalizing the proposed mechanism by which the Administrator, by and through the General Counsel, can issue a dispositive legal interpretation in any matter before the EAB or on any issue addressed by the EAB. The Administrator may direct the General Counsel to file written notice to the EAB providing the Administrator's legal interpretation of an applicable Agency regulation or governing statute in any matter before the EAB. This Administrator's use of this mechanism applies to all actions before EAB—both permit and enforcement cases. This mechanism is distinguished from briefs filed by an EPA Region setting forth its position as the permit issuer. The intent of this proposal is to allow the Administrator, in specific cases, to retain authority as it pertains to legal interpretations in administrative appeals. Nothing in this rule limits the Administrator's existing authority (derived from his or her statutory authority to issue the permits in the first instance) to review or change any EAB decision.

EPA received several comments opposing this new mechanism. Some commenters asserted that the Agency failed to provide any details on how the process would work and when it could be invoked. At least one commenter noted that existing processes should be enough to address any of the issues this mechanism sought to address. Other commenters asserted that its application to enforcement cases presented due process concerns related to *ex parte* communications and unfair notice.

[2] This document is published by the Office of Personnel Management at *https://www.opm.gov/policy-data-oversight/senior-executive-service/reference-materials/guidesesservices.pdf.*

EPA believes it has sufficiently explained how the mechanism works and when it can be invoked. The Administrator will direct the General Counsel to file a written notice with the EAB that provides the Administrator's legal interpretation of the relevant statute or regulation. As explained in the proposal and reiterated in this final rule, the Administrator may utilize the mechanism in any matter before the EAB or on any issue addressed by the EAB, meaning it has no temporal limitation. EPA agrees with the comment that the Administrator does not need this mechanism to achieve the goals of this provision. However, the Agency believes that codifying this mechanism more directly and transparently reflects the Administrator's authority, and, as discussed in Section III.C below, mitigates any concerns over EAB judges acting as inferior officers. Lastly, EPA does not believe that this mechanism raises due process concerns. Any use of this mechanism will necessarily conform with EPA's *ex parte* rules in 40 CFR 22.8. In order to ensure such conformance, the General Counsel will issue a memorandum detailing specific measures that will be taken to create any necessary firewalls between attorneys litigating matters before the Board and those that may work on the Administrator's legal interpretation in a given case. With regard to unfair notice, the relevant inquiry is whether the regulated party had adequate notice of the relevant legal requirement at the time the alleged violation occurred. A binding legal interpretation issued by the Administrator during the enforcement appeal process does nothing to change whether there was adequate notice prior to bringing the enforcement action.

B. How does this final rule affect pending appeals?

The provisions included in this final rule apply to any appeal filed with the EAB after the effective date of this final rule, including for permit decisions that were finalized before the effective date but for which the period for filing a petition for review has not expired. The final rule does not apply to any appeal that was filed before the effective date of this rule.

C. Why is EPA finalizing these reforms?

Each statue implemented by EPA that requires the issuance of permits authorizes the Administrator to issue such permits. The Administrator retains discretion as to the procedural process of issuing such permits and may delegate his or her authority as he or she deems necessary to implement the statutory objectives. *See Avenal Power Center, LLC* v. *EPA,* 787 F. Supp. 2d 1, 3 (D.D.C. 2011). The EAB was created in 1992 by a delegation of the Administrator's authority over appellate proceedings, including, among other things, appeals from permit decisions made by Regional Administrators. That delegation of authority, along with the Board's rules of procedure and scope of responsibilities, was codified via a procedural rule. *See* 57 FR 5320 (February 13, 1992). Having created the EAB through delegation, the Administrator may now alter the Board's role in the permitting process, particularly if he or she believes a different approach would better serve the purposes of the statutes he or she implements. This action does just that by modifying the prior rules of procedure and realigning the prior delegations in manner that ensures a proper level of accountability and consistency in decision-making, streamlines the permitting process, and ultimately results in better and more efficient outcomes.

EPA received several comments asserting that its proposal did not constitute a procedural rule. Many of the same commenters asserted that, because the proposal sought to revise the process for appealing PSD and Acid Rain permits under the CAA, the Agency is required to follow that statute's rulemaking requirements in section 307(d), which include, among other things, a public hearing. EPA disagrees with both comments. This action is a rule of agency procedure and practice under the Administrative Procedure Act (APA). 5 U.S.C. 553(b)(A). This final rule simply amends certain aspects of the original procedural rule that established the EAB in 1992. Moreover, because it is a procedural rule under the APA, the final rule is exempt from section 307(d) of the CAA: ''This subsection shall not apply in the case of any rule or circumstance referred to in subparagraphs (A) or (B) of subsection 553(b) of title 5.'' 42 U.S.C. 7607(d)(1). Courts have affirmed that the CAA adopts the APA's notice and comment exceptions in 5 U.S.C. 553(b). *See EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118, 134 (D.C. Cir. 2015) (''[T]he Clean Air Act permits EPA to conduct rulemaking without notice and comment when doing so would be appropriate under Subsection 553(b) of the Administrative Procedure Act. . . .''); *see also Sierra Club* v. *Jackson,* 833 F.Supp.2d 11 (D.C. Circuit 2012); *Small Refiner Lead Phase-Down Task Force* v. *EPA,* 705 F.2d 506 (D.C. Cir. 1983).

EPA also received one comment asserting that, in light of the Supreme Court's decision in *Lucia* v. *SEC,* 138 S. Ct. 2044 (2018), and the functions performed by the EAB, the appointment of EAB judges is unconstitutional. In *Lucia,* the Supreme Court held that SEC administrative law judges are constitutional officers of the United States and must be appointed in accordance with the Appointments Clause of the Constitution. The commenter suggests that EAB judges are constitutional officers that have not been appointed consistent with the Appointments Clause, which requires such officers be appointed by the President with the advice and consent of the Senate, unless ''Congress . . . by law vest[s] the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.'' U.S. CONST. art. II, § 2, cl. 2.

EPA disagrees that EAB service as the Board is currently comprised violates the Constitution. The Administrator derives his or her appointment authority from Reorganization Plan No. 3 of 1970, 84 Stat. 2086 (July 9, 1970), which also ''convey[ed] to the [EPA] Administrator all of the housekeeping authority available to other department heads under [5 U.S.C. 301]'' and demonstrates that ''Congress has vested the Administrator with the authority to run EPA, to exercise its functions, and to issue regulations incidental to the performance of those functions.'' [3] Courts have previously held that ''offices'' under the Appointments Clause can be created by Executive Branch officials invoking their general housekeeping and delegation authorities. *See Willy* v. *Administrative Review Bd.,* 423 F.3d 483, 491 (5th Cir. 2005) (citing Reorg. Plan No. 6 of 1950, § 2, 15 FR 3174 (1950), 64 Stat. 1263, and 5 U.S.C. 301); *see also Varnadore* v. *Secretary of Labor,* 141 F.3d 625, 631 (6th Cir. 1998); *Com. of Pa., Dep't of Pub. Welfare* v. *U.S. Dep't of Health & Human Servs.,* 80 F.3d 796, 804–05 (3d Cir. 1996). The Administrator is authorized to create the Board and appoint EAB judges. While EPA does not contest the commenter's characterization of EAB judges as inferior officers, the Agency disagrees with any suggestion that EAB decisions may only be made by principal officers. The EAB's authority is delegated from the Administrator, who adopts the procedural rules, such as this action, that govern the EAB, and the judges are

[3] *See supra* n.1.

subject to removal or reassignment by the Administrator as explained in Section III.A.6. Moreover, having created the EAB via regulation, the Administrator is also free to abolish the EAB. *See In re Grand Jury Investigation,* 916 F.3d 1047, 1052 (D.C. Cir. 2019) (explaining that a principal officer's ability to completely abolish an office can render that officer inferior) (citing *In re Sealed Case,* 829 F.2d 50, 56 (D.C. Cir. 1987); *Morrison* v. *Olson,* 487 U.S. 654, 721 (1988) (Scalia, J., dissenting) (noting that an officer is inferior and subject to control ''if by no other means than'' the principal's ability to ''amend[ ] or revok[e] the regulation defining his authority'')). While the creation of the EAB and the appointment of its judges meet constitutional requirements, *Lucia* does highlight the requirement that inferior officers are accountable to a principal officer. And that, while the EAB has been viewed with a measure of independence, it is ultimately accountable to the Administrator and the authority he or she has delegated to it. This action only strengthens the EAB's accountability to the Administrator by, among other things, confirming the Administrator's ability to provide legal interpretations on matters before the EAB.

IV. Statutory and Executive Order Reviews

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

This action is exempt from review by the Office of Management and Budget (OMB) because it is limited to agency organization, management or personnel matters.

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

This action is not an Executive Order 13771 regulatory action because it relates to agency organization, management or personnel.

C. Paperwork Reduction Act (PRA)

This action does not contain any information collection activities and therefore does not impose an information collection burden under the PRA.

D. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule pertains to agency management or personnel, which the EPA expressly exempts from notice and comment rulemaking requirements under 5 U.S.C. 553(a)(2).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1536, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have 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.

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

This action does not have tribal implications as specified in Executive Order 13175.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

This action is not subject to Executive Order 12898 (59 FR 7629, Feb. 16, 1994) because it does not establish an environmental health or safety standard.

L. Congressional Review Act (CRA)

This final rule is exempt because it is a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

List of Subjects

40 CFR Part 1

Environmental protection, Organization and functions (Government agencies).

40 CFR Part 49

Environmental protection, Administrative practice and procedure, Air pollution control, Indians, Intergovernmental relations, Reporting and Recordkeeping requirements.

40 CFR Part 71

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

40 CFR Part 124

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous waste, Indians-lands, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Andrew Wheeler,
Administrator.

For the reasons set forth in the preamble, EPA amends 40 CFR parts 1, 49, 71, and 124 as follows:

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

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

Authority: 5 U.S.C. 552; Reorganization Plan No. 3 of 1970, 84 Stat. 2086 (July 9, 1970).

■ 2. Amend § 1.25 by revising paragraphs (e)(2) and (3) and adding paragraphs (e)(4) and (5) to read as follows:

§ 1.25 Staff offices.

* * * * *

(e) * * *

(2) *Functions.* (i) The Environmental Appeals Board shall exercise only that authority expressly delegated to it in this title. The Environmental Appeals Board, may also, at the Administrator's express request, provide advice and consultation, make findings of fact and conclusions of law, prepare a recommended decision, or serve as the final decisionmaker, as the Administrator deems appropriate.

(ii) In performing its functions, the Environmental Appeals Board may consult with any EPA employee concerning any matter governed by the rules set forth in this title, provided such consultation does not violate applicable *ex parte* rules in this title.

(iii) The Administrator may limit the Environmental Appeals Board's authority to interpret statutes and regulations otherwise delegated to it in this title by issuing, through the General Counsel, a binding legal interpretation of any applicable statute or regulation. Nothing in this section limits the Administrator's authority to review or change any EAB decision.

(3) *Final Decisions and Orders.* (i) *Designation.* The Environmental Appeals Board shall designate each final decision as either a published decision or an unpublished final order at the time such decision is issued.

(ii) *Published decisions.* (A) Except as provided in paragraph (e)(3)(ii)(B) of this section, the Environmental Appeals Board may not publish a decision in the Environmental Appeals Decisions (E.A.D.) or on the Board's website under the heading "Published Decisions" until 15 days after the date on which the decision is issued.

(B) The Administrator may, within 15 days of the Environmental Appeals Board issuing a decision designated for publication, re-designate the decision as an unpublished final order. Once re-designated, the Environmental Appeals Board may not publish such decision in the Environmental Appeals Decisions (E.A.D.) or on the Board's website under the heading "Published Decisions".

(4) *Qualifications.* Each member of the Environmental Appeals Board shall be a graduate of an accredited law school and a member in good standing of a recognized bar association of any State or the District of Columbia. Board Members shall not be employed by the Office of Enforcement, the Office of the General Counsel, a Regional Office, or any other office directly associated with matters that could come before the Environmental Appeals Board. A Board Member shall recuse himself or herself from deciding a particular case if that Board Member in previous employment performed prosecutorial or investigative functions with respect to the case, participated in the preparation or presentation of evidence in the case, or was otherwise personally involved in the case.

(5) *Term.* (i) *Initial terms.* (A) The seat of the longest serving member is designated as seat one, the second longest serving member as seat two, the third longest serving member as seat three, and the most recent member as seat four. If any of the four seats are vacant as of September 21, 2020, any such seat is designated a number based on the date on which it became vacant, after seats have been designated for current members.

(B) The initial term for seat one ends three years from September 21, 2020. The initial term for seat two ends six years from September 21, 2020. The initial term for seat three ends nine years from September 21, 2020. The initial term for seat four ends twelve years after September 21, 2020. The Administrator has the option of renewing these initial terms under paragraph (e)(5)(ii) of this section.

(C) Nothing in this section prevents a member of the Environmental Appeals Board from resigning, retiring, or transferring before the expiration of the member's initial term. Similarly, nothing in this paragraph forecloses the Administrator from reassigning a member of the Environmental Appeals Board to another position, consistent with applicable requirements, prior to the expiration of the member's initial term. The Administrator shall follow the provisions in 5 CFR 317.901 in making any reassignment under this section.

(D) If a member of the Environmental Appeals Board resigns, retires, or transfers before the expiration of the member's initial term, the replacement member will serve for the remaining portion of the initial term, with an option for renewal at the end of the term. If the term of the replacement member is not renewed, the Administrator shall reassign the replacement member to another position, consistent with the provisions of 5 CFR 317.901.

(ii) *12-year terms.* (A) After the initial terms in paragraph (e)(5)(i) of this section, each member of the Environmental Appeals Board is appointed to a twelve-year term, with an option for renewal at the end of that twelve-year period. Nothing in this paragraph prevents a member of the Environmental Appeals Board from resigning, retiring, or transferring before the expiration of the member's twelve-year term. Similarly, nothing in this paragraph forecloses the Administrator from reassigning a member of the Environmental Appeals Board to another position, consistent with applicable requirements, prior to the expiration of the member's renewable twelve-year term. The Administrator shall follow the provisions in 5 CFR 317.901 in making any reassignment under this section.

(B) If a member of the Environmental Appeals Board resigns, retires, or transfers before the expiration of the member's term, the replacement member will serve for the remaining portion of the term, with an option for renewal at the end of the term. If the term of the replacement member is not renewed, the Administrator shall reassign the replacement member to another position, consistent with the provisions of 5 CFR 317.901.

PART 49—INDIAN COUNTRY: AIR QUALITY PLANNING AND MANAGEMENT

■ 3. The authority citation for part 49 continues to read as follows:

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

Subpart C—General Federal Implementation Plan Provisions

■ 4. Amend § 49.159 by revising paragraph (d) to read as follows:

§ 49.159 Final permit issuance and administrative and judicial review.

* * * * *

(d) *Can permit decisions be appealed?* (1) Permit decisions may be appealed under the permit appeal procedures of 40 CFR 124.19.

(2) An appeal under paragraph (d)(1) of this section is, under section 307(b) of the Act, a prerequisite to seeking judicial review of the final agency action.

* * * * *

■ 5. Amend § 49.172 by revising paragraph (d) to read as follows:

§ 49.172 Final permit issuance and administrative and judicial review.

* * * * *

(d) *Can permit decisions be appealed?* (1) Permit decisions may be appealed under the permit appeal procedures of 40 CFR 124.19.

(2) An appeal under paragraph (d)(1) of this section is, under section 307(b) of the Act, a prerequisite to seeking judicial review of the final agency action.

* * * * *

PART 71—FEDERAL OPERATING PERMIT PROGRAMS

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

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

Subpart A—Operating Permits

■ 7. Amend § 71.11 by revising paragraph (l) to read as follows:

§ 71.11 Administrative record, public participation, and administrative review.

* * * * *

(l) *Appeal of permits.* (1) Permit decisions may be appealed under the permit appeal procedures of 40 CFR 124.19.

(2) An appeal under paragraph (l)(1) of this section is, under section 307(b) of the Act, a prerequisite to seeking judicial review of the final agency action.

* * * * *

Subpart B—Permits for Early Reductions Sources

■ 8. Amend § 71.27 by revising paragraph (l) to read as follows:

§ 71.27 Public participation and appeal.

* * * * *

(l) *Appeal of permits.* (1) Permit decisions may be appealed under the permit appeal procedures of 40 CFR 124.19.

(2) An appeal under paragraph (l)(1) of this section is, under section 307(b) of the Act, a prerequisite to seeking judicial review of the final agency action.

(3) The filing of a petition for review of any condition of the permit or permit decision shall not stay the effect of any contested permit or permit condition.

* * * * *

PART 124—PROCEDURES FOR DECISIONMAKING

■ 9. The authority citation for part 124 continues to read as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.;* Safe Drinking Water Act, 42 U.S.C. 300f *et seq.;* Clean Water Act, 33 U.S.C. 1251 *et seq.;* Clean Air Act, 42 U.S.C. 7401 *et seq.*

Subpart A—General Program Requirements

■ 10. Amend § 124.19 by:

■ a. Revising paragraphs (a)(4)(i), (e), (g) and (l);

■ b. Removing paragraph (p); and

■ c. Redesignating paragraphs (m) through (o) as paragraphs (n) through (p) and adding a new paragraph (m).

The revisions and additions read as follows:

§ 124.19 Appeal of RCRA, UIC, NPDES and PSD Permits.

(a) * * *

(4) * * * (i) In addition to meeting the requirements in paragraph (d) of this section, a petition for review must identify the contested permit condition or other specific challenge to the permit decision and clearly set forth, with legal and factual support, petitioner's contentions for why the permit decision should be reviewed. The petition must demonstrate that each challenge to the permit decision is based on a finding of fact or conclusion of law that is clearly erroneous.

* * * * *

(e) *Participation by amicus curiae.* Any interested person may file an amicus brief in any appeal pending before the Environmental Appeals Board under this section. The deadline for filing such brief 21 days after the filing of the petition. Amicus briefs may not exceed 15 pages.

* * * * *

(g) *Motions for extension of time.* (1) Parties must file motions for extensions of time sufficiently in advance of the due date to allow other parties to have a reasonable opportunity to respond to the request for more time and to provide the Environmental Appeals Board with a reasonable opportunity to issue an order.

(2) Each party may only file one motion for extension and the requested extension may not exceed 30 days.

* * * * *

(l) *Final disposition.* (1) Except as provided in paragraph (l)(2), the Environmental Appeals Board shall issue its decision on a permit appeal by the later date occurring 60 days after the date on which:

(i) The final brief has been submitted; or

(ii) Oral argument is concluded.

(2) The Environmental Appeals Board may, upon determining that the nature and complexity of the case requires additional time, grant itself an additional 60 days to issue its decision.

(3) Any written opinion issued by the Environmental Appeals Board should only be as long as necessary to address the specific issues presented to the Board in the appeal.

(m) *Judicial review.* (1) A petition to the Environmental Appeals Board under paragraph (a) of this section is, under 5 U.S.C. 704, a prerequisite to seeking judicial review of the final agency action.

(2) For purposes of judicial review under the appropriate Act, final agency action on a permit occurs when agency review procedures under this section are exhausted and the Regional Administrator subsequently issues a final permit decision under this paragraph. A final permit decision must be issued by the Regional Administrator:

(i) When the Environmental Appeals Board issues notice to the parties that the petition for review has been denied;

(ii) When the Environmental Appeals Board issues a decision on the merits of the appeal and the decision does not include a remand of the proceedings; or

(iii) Upon the completion of remand proceedings if the proceedings are remanded, unless the Environmental Appeals Board's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.

(3) The Regional Administrator must promptly publish notice of any final agency action in the **Federal Register** regarding the following permits:

(i) PSD permits;

(ii) Outer continental shelf permits issued under 40 CFR part 55;

(iii) Federal Title V operating permits issued under 40 CFR part 71;

(iv) Acid Rain permits appealed under 40 CFR part 78;

(v) Tribal Major Non-Attainment NSR permits issued under 40 CFR 49.166 through 49.173; and

(vi) Tribal Minor NSR permits issued under 40 CFR 49.151 through 49.161.

[FR Doc. 2020–16257 Filed 8–20–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2019–0595; FRL–10010–61]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances (20–1.B)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for chemical substances which are the subject of premanufacture notices (PMNs). This action requires persons to notify EPA least 90 days before commencing manufacture (defined by statute to include import) or processing of any of these chemical substances for an activity that is designated as a significant new use by this rule. The required notification initiates EPA's evaluation of the chemical under the conditions of use within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required as a result of that determination.

DATES: This rule is effective on October 20, 2020. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on September 4, 2020.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov*.

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import provisions promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and Orders under TSCA, which would include the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see 40 CFR 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. How can I access the docket?

The docket includes information considered by the Agency in developing the proposed and final rules. The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2019–0595, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

II. Background

A. What action is the agency taking?

EPA is finalizing a SNUR under TSCA section 5(a)(2) for chemical substances which were the subject of PMNs P–16–291, P–16–486, P–17–184, P–18–232, P–18–236, and P–18–264. These SNURs require persons who intend to manufacture or process any of these chemical substances for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity.

Previously, in the **Federal Register** of January 16, 2020 (85 FR 2676) (FRL–10002–68), EPA proposed a SNUR for these chemical substances in 40 CFR part 721 subpart E. More information on the specific chemical substances subject to this final rule can be found in the **Federal Register** documents proposing the SNUR. The record for the SNUR was established in the docket under docket ID number EPA–HQ–OPPT–2019–0595. That docket includes information considered by the Agency in developing the proposed and final rules.

EPA received two public comments on this rule. A summary of those comments and EPA's responses are found in Unit IV.

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

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors listed in Unit III. As described in Unit II(C), the general SNUR provisions are found at 40 CFR part 721, subpart A.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. According to 40 CFR 721.1(c), persons subject to these SNURs must comply with the same SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA sections 5(b) and 5(d)(1), the exemptions authorized by TSCA sections 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA must either determine that the use is not likely to present an unreasonable risk of injury under the conditions of use for the chemical substance or take such regulatory action as is associated with an alternative determination before the manufacture or processing for the significant new use can commence. If EPA determines that the chemical substance is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's findings.

III. Significant New Use Determination

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

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

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors. In determining what would constitute a significant new use for the chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, and potential human exposures and environmental releases that may be associated with the substances, in the context of the four bulleted TSCA section 5(a)(2) factors listed in this unit. During its review of these chemicals,

EPA identified certain conditions of use that are not intended by the submitters, but reasonably foreseen to occur. EPA is designating those reasonably foreseen conditions of use as well as certain other circumstances of use as significant new uses.

IV. Public Comments on the Proposed Rule and EPA Responses

EPA received two comments on the proposed rule: One from an identifying entity and one that was anonymous. The anonymous commenter agrees that notice to EPA prior to commencement of the ''significant new use'' of the chemical substances is important; therefore, no response by the Agency is required. The identifying commenter stated that these rules need to have engineering controls that are appropriate to the chemical. These comments are general in nature and not specific to the SNUR and are more properly directed to the TSCA section 5(a)(3) determination for the PMN. EPA is therefore not responding to these comments.

EPA is finalizing the SNURs as proposed, except for correcting the recordkeeping requirements of the SNUR proposed at 40 CFR 721.11449 for the chemical substance 1-propanaminium, 2-hydroxy-N, N-dimethyl-N-[3-[(1-oxooctyl-amino]propyl]-3-sulfo-, inner salt (PMN P-17-184; CASRN 1612795–77–3). The Agency inadvertently omitted 40 CFR 721.125(d), which is the recordkeeping requirement corresponding to the use of any applicable personal protective equipment required under 40 CFR 721.63.

V. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for chemical substances in 40 CFR part 721, subpart E. In Unit IV. of the proposed SNUR, EPA provided the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the SNUR.
- Potentially Useful Information.
- CFR citation assigned in the regulatory text section of these rules.

The regulatory text section of these rules specifies the activities designated as significant new uses. Certain new uses, including production volume limits and other uses designated in the rules, may be claimed as CBI.

The chemical substances that are the subject of these SNURs completed premanufacture review. In addition to those conditions of use intended by the submitter, EPA has identified certain other reasonably foreseen conditions of use and/or other circumstances of use. EPA has preliminarily determined that the chemicals under their intended conditions of use are not likely to present an unreasonable risk. However, EPA has not assessed risks associated with the reasonably foreseen conditions of use for these chemicals. EPA is designating these reasonably foreseen and other circumstances of use as significant new uses. As a result, those significant new uses cannot occur without first going through a separate, subsequent EPA review and determination process associated with the SNUN.

VI. Rationale and Objectives of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are the subject of these SNURs and as further discussed in Unit IV. of the proposed rule, EPA identified certain reasonably foreseen conditions of use as well as other circumstances different from the intended conditions of use identified in the PMNs and determined that those changes could result in changes in the type or form of exposure to the chemical substances and/or increased exposures to the chemical substances and/or changes in the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of the chemical substances.

B. Objectives

EPA is issuing these SNURs because the Agency wants:

- To receive notice of any person's intent to manufacture or process a listed chemical substance for the described significant new use before that activity begins.
- To have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.
- To be obligated to make a determination under TSCA section 5(a)(3) regarding the use described in the SNUN, under the conditions of use. The Agency will either determine under TSCA section 5(a)(3)(C) that the chemical, under the conditions of use, is not likely to present an unreasonable risk, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator under the conditions of use, or make a determination under TSCA section 5(a)(3)(A) or (B) and take the required regulatory action associated with the determination, before manufacture or processing for the significant new use of the chemical substance can occur.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the internet at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

VII. Applicability of the Significant New Use Designation

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for chemical substances for which an NOC has not been submitted EPA concludes that the designated significant new uses are not ongoing.

EPA designated December 2, 2019 (the date of web posting of the proposed rule) as the cutoff date for determining whether the new use is ongoing. The objective of EPA's approach has been to ensure that a person could not defeat a SNUR by initiating a significant new use before the effective date of the final rule.

In the unlikely event that a person began commercial manufacture or processing of the chemical substances for a significant new use identified as of December 2, 2019, that person will have to cease any such activity upon the effective date of the final rule. To resume their activities, that person would have to first comply with all applicable SNUR notification requirements and wait until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

VIII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require development of any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a

rule, Order or consent agreement under TSCA section 4 (15 U.S.C. 2603), then TSCA section 5(b)(1)(A) (15 U.S.C. 2604(b)(1)(A)) requires such information to be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, Order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Unit IV. of the proposed rule lists potentially useful information for all SNURs listed here. Descriptions are provided for informational purposes. The potentially useful information identified in Unit IV. of the proposed rule will be useful to EPA's evaluation in the event that someone submits a SNUN for the significant new use. Companies who are considering submitting a SNUN are encouraged, but not required, to develop the information on the substance.

EPA strongly encourages persons, before performing any testing, to consult with the Agency. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h).

The potentially useful information described in Unit IV. of the proposed rule may not be the only means of providing information to evaluate the chemical substance associated with the significant new uses. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA sections 5(e) or 5(f). EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

IX. Procedural Determinations

By this rule, EPA is establishing certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI, at 40 CFR 721.1725(b)(1).

Under these procedures a manufacturer or processor may request EPA to determine whether a proposed use would be a significant new use under the rule. The manufacturer or processor must show that it has a *bona fide* intent to manufacture or process the chemical substance and must identify the specific use for which it intends to manufacture or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in 40 CFR 721.1725(b)(1) with that under 40 CFR 721.11 into a single step.

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, *i.e.,* the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

X. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and 40 CFR 721.25. e-PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2019–0595.

XII. Statutory and Executive Order Reviews

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

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

This action establishes SNURs for several new chemical substances that were the subject of PMNs. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act (PRA)

According to PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this action. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the

table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Regulatory Support Division, Office of Mission Support (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

Pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of this SNUR would not have a significant adverse economic impact on a substantial number of small entities. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a ''significant new use.'' Because these uses are ''new,'' based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was seven in Federal fiscal year (FY) 2013, 13 in FY2014, six in FY2015, 10 in FY2016, 14 in FY2017, and 11 in FY2018 and only a fraction of these were from small businesses. In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from $16,000 to $2,800. This lower fee reduces the total reporting and recordkeeping of cost of submitting a SNUN to about $10,116 for qualifying small firms. Therefore, the potential economic impacts of complying with this SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this action. As such, EPA has determined that this action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132: Federalism

This action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999).

F. Executive Order 13175: Consultation and Coordination With Indian Tribe Governments

This action does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This action does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 (65 FR 67249, November 9, 2000), do not apply to this action.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), does not apply to this action.

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

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994).

XIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: July 16, 2020.

Tala Henry,

Deputy Director, Office of Pollution Prevention and Toxics.

Therefore, for the reasons stated in the preamble, the EPA amends 40 CFR parts 9 and 721 as follows:

PART 9—OMB APPROVALS UNDER THE PAPERWORK REDUCTION ACT

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, amend the table by adding entries for §§ 721.11447 through 721.11452 in numerical order under the undesignated center heading ''Significant New Uses of Chemical Substances'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * *	* *
Significant New Uses of Chemical Substances	
* * *	* *
721.11447	2070–0012
721.11448	2070–0012
721.11449	2070–0012
721.11450	2070–0012
721.11451	2070–0012
721.11452	2070–0012
* * *	* *

* * * * *

PART 721—SIGNIFICANT NEW USES OF CHEMICAL SUBSTANCES

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. Add §§ 721.11447 through 721.11452 to subpart E to read as follows:

Subpart E—Significant New Uses for Specific Chemical Substances

* * * * *

Sec.

* * * * *

721.11447 1,3-Cyclohexanedimethanamine adduct (generic).
721.11448 Polychloropropane (generic).
721.11449 1-Propanaminium, 2-hydroxy-N,N-dimethyl-N-[3-[(1-oxooctyl)amino]propyl]-3-sulfo-, inner salt.
721.11450 Polyol, reaction products with formaldehyde and methanol (generic).
721.11451 Metal, alkenoic acid-alkyl alkenoate-alkyl substituted alkenoate polymer carbopolycycle complexes (generic).
721.11452 Phosphonomethylated ether diamine (generic).

* * * * *

§ 721.11447 1,3-Cyclohexanedimethanamine adduct (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as 1,3-cyclohexanedimethanamine adduct (PMN P-16-291) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=74.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11448 Polychloropropane (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polychloropropane (PMN P-16-486) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(a), (b), (c), and (h). It is a significant new use to use sampling methods other than the ''zero-contact'' methods described in the PMN.

(ii) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (j) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11449 1-Propanaminium, 2-hydroxy-N,N-dimethyl-N-[3-[(1-oxooctyl)amino]propyl]-3-sulfo-, inner salt.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-Propanaminium, 2-hydroxy-N,N-dimethyl-N-[3-[(1-oxooctyl)amino]propyl]-3-sulfo-, inner salt (PMN P-17-184; CASRN 1612795–77–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4) and (5), (b)(concentration set at 1.0%) and (c). When determining which persons are reasonable likely to be exposed as required for § 721.63(a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health assigned protection factor of at least 1000.

(ii) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process or use the substance for use other than firefighting foams, industrial all-purpose cleaners, and transportation washes. It is a significant new use to process the substance to greater than 10% by weight in the final formulated product.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (d), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The

provisions of § 721.185 apply to this section.

§ 721.11450 Polyol, reaction products with formaldehyde and methanol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyol, reaction products with formaldehyde and methanol (PMN P-18-232) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process or use of the substance in a manner that results in inhalation exposure. It is a significant new use to manufacture the substance at greater than the confidential annual production volume described in the PMN.

(ii) [Reserved].

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

§ 721.11451 Metal, alkenoic acid-alkyl alkenoate-alkyl substituted alkenoate polymer carbopolycycle complexes (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as metal, alkenoic acid-alkyl alkenoate-alkyl substituted alkenoate polymer carbopolycycle complexes (PMN P-18-236) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j). It is a significant new use to manufacture, processing or use of the PMN substance in a manner that results in inhalation exposure.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=50.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

§ 721.11452 Phosphonomethylated ether diamine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as phosphonomethylated ether diamine (PMN P-18-264) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, processing or use of the PMN substance in a manner that results in inhalation exposure.

(ii) [Reserved].

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2020–16382 Filed 8–20–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2020–0014; FRL–10012–93–Region 7]

Air Plan Approval; Missouri; Control of Emissions From Production of Pesticides and Herbicides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) for its rule related to control of emissions from production of pesticides and herbicides in the Kansas City area. This final action will amend the SIP to remove certain provisions from the rule, consolidate requirements, include incorporations by reference and revise restrictive language. The EPA's approval of these rule revisions is being done in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on September 21, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2020–0014. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Will Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7714; email address: *stone.william@epa.gov.*

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

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I. What is being addressed in this document?

The EPA is approving revisions to 10 Code of State Regulation (CSR) 10–2.320, *Control of Emissions from Production of Pesticides and Herbicides* in the Missouri SIP. Missouri made several revisions to the rule. These revisions are described in detail in the technical support document (TSD) included in the docket for this action. The EPA is finalizing this action because the revisions to these rules meet the applicable requirements of the Clean Air Act.

II. Have the requirements for approval of a SIP revision been met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from August 1, 2018 to September 30, 2018 and received fourteen comments on the two rules. Missouri responded to all comments. As stated in the TSD for this action, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. The EPA's Response to Comments

The public comment period on the EPA's proposed rule was open from February 4, 2020 through March 5, 2020. During this period, EPA received several comments from two commenters.

Comments From Center for Biological Diversity and Center for Environmental Health

Comment: The Center for Biological Diversity and Center for Environmental Health made several comments in their comment letter related to language that had been previously approved into the SIP when it was approved in 1989. *See* 54 FR 10322 (March 13, 1989) and 54 FR 46232 (November 2, 1989). The commenters raise the following issues: (1) The sources covered by the rule; (2) the sufficiency of the monitoring and recordkeeping provisions; and (3) the legal sufficiency of language related to the director's review of records kept by subject sources.

Response: EPA appreciates the comments on the proposal, but they are not germane to the SIP revision at issue in this action. As described in detail in the TSD to this rulemaking, the revisions to this rule are administrative in nature and do not change the purpose or substance of the preexisting state rule in the SIP. The TSD, included in the docket for this rulemaking, detail the revisions the state made to the prior version of the rule using strikeout, bold and red lettering. These minor changes include, for example, moving previously approved language into a new section (revisions to section (3) and (4)); renumbering paragraphs (revisions to sections (4) and (5)); and other minor wording changes (revisions to section (1)). EPA's TSD analysis focused only on these wording changes and did not evaluate the unchanged portions of the preexisting state rule. The state made no substantive changes *e.g.,* applicability, emission limit changes, etc., to the rule already approved in the state's SIP.

The EPA did not intend to solicit comments on the portions of the rule that the state did not change in this rulemaking. The NPRM did not request comment on the portions of the rule that were unchanged. Further, EPA's comments during the state's rulemaking process that led to this SIP revision focused only on the administrative and minor changes made to the rule, not on the substantive requirements previously approved into the SIP. *See* EPA–R07–OAR–2020–0014, State Submittal, p. 19.[1] Thus, the agency's comments on the state's draft SIP submission reflect that the agency was not evaluating the state rule for any purposes other than the minor revisions the state intended to make.

As demonstrated by the language in both the TSD and the notice of proposed rulemaking, the agency was not evaluating, and did not intend to evaluate, this SIP revision for substantive purposes. This action merely approves the state's editorial and renumbering changes to the existing, approved SIP provision.

The agency first approved the provision into the Missouri SIP in 1989. 54 FR 10322 (March 13, 1989). The state subsequently amended the rule, which EPA approved. 59 FR 43480 (Aug. 24, 1994) (correction document 60 FR 16806 April 3, 1995). Courts have indicated that actions, such as the action taken on this rule, do not reopen issues on which the agency was not seeking comment. *Sierra Club* v. *EPA,* 551 F.3d 1019, 1024 (D.C. Cir. 2008) (citing *Am. Iron & Steel Inst.* v. *EPA,* 886 F.2d 390, 397 (D.C. Cir. 1989)) (''Under the reopening doctrine, the time for seeking review starts anew where the agency reopens an issue by holding out the unchanged section as a proposed regulation, offering an explanation for its language, soliciting comments on its substance, and responding to the comments in promulgating the regulation in its final form.''); *Appalachian Power* v. *EPA,* 251 F.3d 1026 (D.C. Cir. 2004).[2] The issues raised by the commenter address the wording and substance of the state rule approved by the agency in 1989. Accordingly, any challenge to the 1989 approval would be governed the timing requirements in Clean Air Act section 301, 42 U.S.C. 7601.

Further, EPA notes that the rule now covers only one source, that existed when 10 CSR 10–2.320 was first approved, in an area that is currently attaining all of the NAAQS, including ozone. This rule will continue to apply to this source and any new sources will be subject to the appropriate permitting requirements of the Clean Air Act and the Missouri State Implementation Plan.

The commenters focus entirely on portions of the rule that were not changed by this rulemaking, but instead were approved into the SIP by the agency in 1989 and 1995. As discussed above, the agency did not reopen these provisions for comment. Therefore, EPA is finalizing this SIP revision.

Anonymous Commenter

Comment: The commenter stated that EPA should not approve this SIP revision unless Missouri addresses all the comments and makes all the changes EPA requested in its comments on the rule.

Response: During Missouri's public comment process, EPA submitted comments on the state's proposed revisions to a number of existing SIP provisions. EPA submitted some general comments applicable to the state's revisions to all of the state rules at issue, not all of which were applicable to the revisions to 10 CSR 10–2.320 at issue in this action. EPA submitted three comments to the state that were specific to the rule revisions addressed in this action. These specific comments by EPA were related to clarity and references in the rulemaking and Missouri made those revisions. EPA has determined that the state's submission has met the requirements of the Clean Air Act.

IV. What action is the EPA taking?

The EPA is taking final action to amend 10 CSR 10–2.320 Control of Emissions from Production of Pesticides and Herbicides, which applies in the Kansas City area.

[1] Although EPA's comments on the rulemaking included a comment related to MDNR's requirement to comply with the requirements of CAA sections 110 and 193, 42 U.S.C. 7410 and 7515; as demonstrated by the EPA's comment letter, those comments applied generally to all SIP revisions made by MDNR. Further, because this rule did not have substantive changes to the requirements previously SIP-approved in 1989, MDNR was not required to make a demonstration under section 110 or 193 because there would be no emissions increases related to the changes in the rulemaking.

[2] *ARTBA* v. *EPA,* 588 F.3d 1109 at 1114 (rewriting a rule in plain language does not reopen); *Kennecott Utah Copper Corp.* v. *U.S. Dept. of the Interior,* 88 F.3d 1191 at 1220 (no reopener where agency ''merely re-worded the provision'' with ''no meaningful difference''); *Columbia Falls Aluminum Co.* v. *EPA,* 139 F.3d 914, 920 (D.C. Cir. 1998) (dictum) (no reopener where agency action ''merely republished an existing rule''); cf. also *Pub. Citizen* v. *Nuclear Regulatory Com.,* 901 F.2d 147, 150 (D.C. Cir. 1990) (''where an agency's actions show that it has not merely republished an existing rule in order to propose minor changes to it, but has reconsidered the rule and decided to keep it in effect, challenges to the rule are in order'').

V. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Missouri Regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[3]

VI. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 20, 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 24, 2020.

James Gulliford,

Regional Administrator, Region 7.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart—AA Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry ''10–2.320'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
	Missouri Department of Natural Resources			

[3] 62 FR 27968 (May 22, 1997).

EPA-APPROVED MISSOURI REGULATIONS—Continued

Missouri citation	Title	State effective date	EPA approval date	Explanation
* * * * * * *				
Chapter 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area				
* * * * * * *				
10–2.320	Control of Emissions from Production of Pesticides and Herbicides.	1/30/19	8/21/20, [insert **Federal Register** citation].	
* * * * * * *				

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[FR Doc. 2020–16440 Filed 8–20–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2019–0220; FRL–10012–83-Region 1]

Air Plan Approval; Massachusetts; Negative Declaration for the Oil and Gas Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. The revision provides Massachusetts' determination, via a negative declaration, that there are no facilities within its borders subject to EPA's 2016 Control Technique Guideline (CTG) for the oil and gas industry with respect to both the 2008 and 2015 Ozone National Ambient Air Quality Standards (NAAQS). The intended effect of this action is to approve this item into the non regulatory portion of the Massachusetts SIP. This action is being taken under the Clean Air Act.

DATES: This rule is effective on September 21, 2020.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2019–0220. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov,* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: Ariel Garcia, Environmental Protection Specialist, Air and Radiation Division (Mail Code 05–2), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts, 02109–3912; (617) 918–1660. *garcia.ariel@epa.gov.*

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

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I. Background and Purpose

On May 18, 2020, EPA published a Notice of Proposed Rulemaking (NPRM; see 85 FR 29678) with an associated Direct Final Rule (DFR; see 85 FR 29628) for the Commonwealth of Massachusetts. The DFR approved a negative declaration for Massachusetts for EPA's 2016 Control Technique Guideline (CTG) for the oil and gas industry. We received one relevant adverse comment on the NPRM, and so withdrew the DFR via a Withdrawal Notice published on June 26, 2020. See 85 FR 38327. Other specific requirements of Massachusetts' submittal and the rationale for EPA's action are explained in the DFR and will not be restated here. Our response to the adverse comment on the NPRM is summarized and responded to in section II below.

II. Response to Comment

We received one relevant adverse comment on the NPRM. A summary of the comment, and our response, follows.

Comment: EPA provides no explanation of why Massachusetts' SIP is acceptable. EPA's mere ''understanding'' is not enough to approve a SIP, EPA must evaluate the merits of the SIP and independently verify the accuracy of Massachusetts' assertions. EPA must check sources of information for any sources subject to the oil and natural gas industry CTG.

Response: First, we note that the commenter does not provide any information to contradict Massachusetts' finding that no sources subject to EPA's 2016 CTG for the oil and gas industry exist within the Commonwealth. EPA is not aware of any information indicating that a facility subject to the 2016 oil and gas CTG exists within the Commonwealth of Massachusetts. Additionally, we note that EPA has historically allowed states to submit a negative declaration for a particular CTG category if the state finds that no sources exist in the state which would be subject to that CTG. EPA has addressed the idea of negative declarations numerous times and for various NAAQS including in the General Preamble to the 1990 Amendments,[1] the 2006 RACT Q&A Memo,[2] and the 2008 Ozone Implementation Rule.[3] In each of these

[1] ''*State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' (57 FR 13498 at 13512 (April 16, 1992)).*

[2] ''RACT Q's and A's—Reasonably Available Control Technology RACT: Questions and Answers'' Memorandum from William T. Harnett, May 18, 2006.

[3] ''*Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State*

documents, EPA asserted that if no sources exist in the nonattainment area for a particular CTG category, the state would be allowed to submit a negative declaration SIP revision. This principle also applies to states in the ozone transport region.

Second, we note that Massachusetts' finding is consistent with information contained within EPA data resources of industrial activity within the United States, such as the National Emissions Inventory (NEI) database of sources of air pollution, which is available at: *https://www.epa.gov/air-emissions-inventories/national-emissions-inventory-nei.* And last, we note that EPA Region 1 worked with Massachusetts, and EPA headquarters' technical experts on the CTG, to review the applicability criteria of EPA's 2016 oil and gas CTG to assist the Commonwealth of Massachusetts with its determination.

III. Final Action

We are approving a negative declaration for EPA's 2016 CTG entitled ''Control Techniques Guidelines for the Oil and Natural Gas Industry'' into the Massachusetts SIP.

IV. Statutory and Executive Order Reviews

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

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

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

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. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 20, 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Volatile organic compounds.

Dated: July 27, 2020.

Dennis Deziel,

Regional Administrator, EPA Region 1.

For the reasons stated in the preamble, the EPA amends Part 52 of chapter I, title 40 of the Code of Federal Regulations 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 W—Massachusetts

■ 2. In § 52.1120, amend the table in paragraph (e) by adding the entry for ''Negative declaration for the 2016 Control Techniques Guideline for the Oil and Natural Gas Industry'' at the end of the table, to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(e) * * *

Implementation Plan Requirements,'' (80 FR 12263 at 12278 (March 6, 2015)).

MASSACHUSETTS NON-REGULATORY

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date [3]	Explanations
*	*	*	*	*
Negative declaration for the 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry.	Statewide	10/18/2018	8/21/2020 [Insert FEDERAL REGISTER citation].	Negative declaration

[3] To determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. 2020–16725 Filed 8–20–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2016–0243; FRL–10009–65–OAR]

RIN 2060–AO66

National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products Residual Risk and Technology Review

Correction

In rule document 2020–12725 appearing on pages 49434–49469 in the issue of August 13, 2020, make the following correction:

§ 63.2282 [Corrected]

■ On page 49459, in § 63.2282, in the third column, in the ninth line down, ''August 13, 2021'' should read ''August 13, 2020''.

[FR Doc. C1–2020–12725 Filed 8–20–20; 8:45 am]

BILLING CODE 1300–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2019–0460; FRL–10010–98]

Flupyradifurone; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of flupyradifurone in or on multiple commodities which are identified and discussed later in this document. The Interregional Project Number 4 (IR–4) and the registrant, Bayer CropScience, requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 21, 2020. Objections and requests for hearings must be received on or before October 20, 2020 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2019–0460, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

Please note that due to the public health emergency, the EPA Docket Center (EPA/DC) and Reading Room was closed to public visitors on March 31, 2020. Our EPA/DC staff will continue to provide customer service via email, phone, and webform. For further information on EPA/DC services, docket contact information and the current status of the EPA/DC and Reading Room, please visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2019–0460 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 20, 2020. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your

objection or hearing request, identified by docket ID number EPA–HQ–OPP–2019–0460, 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 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 *https://www.epa.gov/dockets/where-send-comments-epa-dockets.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of February 11, 2020 (85 FR 7708) (FRL–10005–02), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 9E8771) by Interregional Project Number 4 (IR–4), Rutgers, the State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.679 be amended by establishing tolerances for residues of the insecticide flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]- 2(5*H*)-furanone, in or on *Brassica,* leafy greens, subgroup 4–16B at 40 parts per million (ppm); Celtuce at 9 ppm; Coffee, green bean at 1.5 ppm; Fennel, Florence, fresh leaves and stalk at 9 ppm; Kohlrabi at 6 ppm; Leaf petiole vegetable subgroup 22B at 9 ppm; Leafy greens subgroup 4–16A at 30 ppm; Pineapple at 0.3 ppm; Sesame, seed at 3 ppm; Stalk and stem vegetable subgroup 22A, except prickly pear, pads, and prickly pear, Texas, pads at 0.01 ppm; Sunflower subgroup 20B at 0.7 ppm; Tropical and subtropical, inedible peel, cactus, subgroup 24D at 0.3 ppm; Tropical and subtropical, palm fruit, edible peel, subgroup 23C at 8 ppm; and Vegetable, *Brassica,* head and stem, group 5–16 at 6 ppm.

In addition, the IR–4 petition requested that 40 CFR 180.679(c) be amended by establishing tolerances with regional restrictions for residues of the insecticide flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]- 2(5*H*)-furanone, in or on Grass, forage, fodder and hay, group 17 at 15 ppm.

Upon establishment of the above tolerances, IR–4 requested the removal of the existing tolerances in 40 CFR part 180.679 for residues of the insecticide flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]- 2(5*H*)-furanone, in or on *Brassica,* head and stem subgroup 5A at 6.0 ppm; *Brassica,* leafy greens subgroup 5B at 40 ppm; Cactus, fruit at 0.30 ppm; Cilantro, fresh leaves at 30 ppm; Coffee, green been (import tolerance) at 1.5 ppm; Leaf petioles, subgroup 4B at 9.0 ppm; Leafy greens, subgroup 4A at 30 ppm; Pitaya at 0.30 ppm; and Turnip greens at 40 ppm.

IR–4 also requested removal of the section 18 emergency exemption tolerances on sorghum, syrup at 90.0 ppm and sorghum, forage at 30 ppm. Through inadvertent error however, EPA failed to provide notice of this petitioned-for request in its February 11, 2020 document.

In the **Federal Register** of October 28, 2019 (84 FR 57417) (FRL–10001–12), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 9F8775) by Bayer CropScience, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, that requested to establish a tolerance in in 40 CFR part 180.679 for residues of the insecticide flupyradifurone 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]- 2(5*H*)-furanone, in or on Rapeseed subgroup (Crop Subgroup 20A) at 0.03 ppm. This document referenced a summary of the petition prepared by Bayer CropScience, the registrant, which is available in the docket, *http://www.regulations.gov.*

One comment was submitted on each notice of filing. EPA's response to these comments is discussed in Unit IV.C.

Based upon review of the data supporting the petition, EPA revised the commodity definitions for two commodities to be consistent with EPA's preferred terminology, changing Fennel, Florence, fresh leaves and stalk to Fennel, florence, fresh leaves and stalk; and Vegetable, *Brassica,* head and stem, group 5–16 to Vegetable, *brassica,* head and stem, group 5–16. Finally, due to the failure to provide timely notice of the request to remove the section 18 emergency exemption tolerances for sorghum commodities, EPA is not removing those tolerances at this time.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . ."

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for flupyradifurone including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with flupyradifurone follows.

On September 23, 2016, EPA published in the **Federal Register** a final rule establishing tolerances for residues of flupyradifurone in or on several commodities based on the Agency's conclusion that aggregate exposure to flupyradifurone is safe for the general population, including infants and children. *See* (81 FR 65552) (FRL–9951–68). EPA is incorporating the following portions of that document by reference here, as they have not changed in the Agency's current assessment of flupyradifurone tolerances—the toxicological profile and points of departure, the conclusions about cumulative risk, and the Agency's rationale for reducing the children's safety factor.

EPA's exposure assessments have been updated to include the additional exposure from use of flupyradifurone on the *Brassica,* leafy greens, subgroup 4–16B; Celtuce; Coffee, green bean; Fennel, florence, fresh leaves and stalk; Kohlrabi; Leaf petiole vegetable subgroup 22B; Leafy greens subgroup 4–16A; Pineapple; Rapeseed subgroup 20A; Sesame, seed; Stalk and stem vegetable subgroup 22A, except prickly pear, pads, and prickly pear, Texas, pads; Sunflower subgroup 20B; Tropical and subtropical, inedible peel, cactus,

subgroup 24D; Tropical and subtropical, palm fruit, edible peel, subgroup 23C; and Vegetable, *brassica,* head and stem, group 5–16. EPA has assumed tolerance-level residues and 100 percent crop treated (PCT) for the acute dietary assessment. For the chronic dietary assessment, EPA assumed average residues, rather than tolerance-level residues, for some commodities and 100 PCT. EPA's aggregate exposure assessment incorporated this dietary exposure, as well as exposure in drinking water and from residential sources, although drinking water and residential exposures are not impacted by the new uses and thus have not changed since the last assessment and as reflected in the preamble to the September 23, 2016 rule.

Acute dietary risks are below the Agency's level of concern of 100% of the acute population adjusted dose (aPAD); they are 38% of the aPAD for children 1 to 2 years old, the most highly exposed population group. Chronic dietary risks are below the Agency's level of concern of 100% of the chronic population adjusted dose (cPAD); they are 64% of the cPAD for children 1 to 2 years old, the group with the highest exposure. As required by the FFDCA, EPA considered aggregate exposures to flupyradifurone, *i.e.,* exposures from food, drinking water, and residential uses, in its risk assessment. There are no residential uses expected to result in acute, intermediate-term, or chronic exposures; therefore, aggregate risks for those exposure durations are equal to the dietary risks for those exposure durations and not of concern. Aggregating short-term exposures to adults and children with the chronic (background) dietary exposures yields margins of exposure (MOEs) of 300 (adults) and 220 (children). Both of these exceed the Agency's level of concern, which is an MOE of 100 or lower; therefore, short-term exposures are not of concern.

Therefore, based on the risk assessments and information described above, EPA concludes there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to flupyradifurone residues. More detailed information about the Agency's analysis can be found in the document entitled, ''Flupyradifurone; Human Health Risk Assessment for Uses on Grass Forage Fodder and Hay Group 17, Pineapple, Rapeseed Subgroup 20A, Sesame Seed, Stalk and Stem Vegetable Subgroup 22A (except Prickly Pear Pads and Prickly Pear Texas Pads), Sunflower Subgroup 20B, Sweet Sorghum, Tropical and Subtropical Palm Fruit Edible Peel Subgroup 23C, Crop Group Expansions/Conversions of Tolerances to *Brassica* Leafy Greens Subgroup 4–16B, Leafy Greens Subgroup 4–16A, Leaf Petiole Vegetable Subgroup 22B, Tropical and Subtropical Inedible Peel Cactus Subgroup 24D, Vegetable *Brassica* Head and Stem Group 5–16 and Establish Individual Tolerances on Celtuce, Fennel Florence, Kohlrabi; and Coffee,'' which is described under **ADDRESSES**. Locate and click on the hyperlink for docket ID number EPA–HQ–OPP–2019–0460.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology Method RV–001–P10–03, which uses high-performance liquid chromatography with tandem mass spectrometry (HPLC/MS/MS) to quantitate residues of flupyradifurone and its metabolite difluoroacetic acid (DFA) in various crops is available for enforcement. An HPLC/MS/MS method, Method RV–004–A11–05 is adequate as the enforcement method for determination of residues of flupyradifurone and its metabolite DFA in livestock commodities.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

Codex MRLs have been established for head cabbage at 1.5 ppm, cauliflower at 6 ppm, and lettuce (head and leaf) at 4 ppm. For leafy greens subgroup 4–16A, harmonization with Codex is not possible because the U.S. tolerance of 30 ppm is much higher than the Codex MRLs for head lettuce and leaf lettuce. Harmonizing with the Codex MRLs would put U.S. growers at risk of having violative residues despite legal use of the pesticide. The U.S. tolerance on *Brassica* head and stem group 5–16 is harmonized with the Codex cauliflower MRL (6 ppm). It is not possible to also harmonize with head cabbage, which is another commodity in crop group 5–16.

C. Response to Comments

One comment was received stating that residues of pesticide chemicals on various commodities are a serious health hazard that needs to be regulated. Another comment received stated that this chemical should not be used on any food products that Americans eat. The existing legal framework provided by section 408 of the FFDCA states that tolerances may be set when persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute. These comments appear to be directed at the underlying statute and not EPA's implementation of it; the comments provide no information relevant to the Agency's safety determination.

V. Conclusion

Therefore, tolerances are established for residues of flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]-2(5H)-furanone, in or on *Brassica,* leafy greens, subgroup 4–16B at 40 ppm; Celtuce at 9 ppm; Fennel, florence, fresh leaves and stalk at 9 ppm; Kohlrabi at 6 ppm; Leaf petiole vegetable subgroup 22B at 9 ppm; Leafy greens subgroup 4–16A at 30 ppm; Pineapple at 0.3 ppm; Rapeseed subgroup 20A at 0.03 ppm; Sesame, seed at 3 ppm; Stalk and stem vegetable subgroup 22A, except prickly pear, pads, and prickly pear, Texas, pads at 0.01 ppm; Sunflower subgroup 20B at 0.7 ppm; Tropical and subtropical, inedible peel, cactus, subgroup 24D at 0.3 ppm; Tropical and subtropical, palm fruit, edible peel, subgroup 23C at 8 ppm; and Vegetable, *brassica,* head and stem, group 5–16 at 6 ppm. A tolerance with regional restrictions is established for residues of the insecticide flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]-2(5*H*)-furanone, in or on Grass, forage, fodder and hay, group 17 at 15 ppm. Additionally, the existing tolerance for Coffee, green bean is revised to remove the footnote.

In addition, the existing tolerances in 40 CFR part 180.679 for residues of the

insecticide flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]-2(5*H*)-furanone, in or on the following commodities are removed: *Brassica,* head and stem subgroup 5A at 6.0 ppm; *Brassica,* leafy greens subgroup 5B at 40 ppm; Cactus, fruit at 0.30 ppm; Cilantro, fresh leaves at 30 ppm; Leaf petioles, subgroup 4B at 9.0 ppm; Leafy greens, subgroup 4A at 30 ppm; Pitaya at 0.30 ppm; and Turnip greens at 40 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), nor is it considered a regulatory action under Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 26, 2020.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.679:

■ a. In paragraph (a):

■ i. Add a heading for the table.

■ ii. Remove the entries for ''*Brassica,* head and stem subgroup 5A'' and ''*Brassica,* leafy greens subgroup 5B''.

■ iii. Add alphabetically the entry ''*Brassica,* leafy greens, subgroup 4–16B''.

■ iv. Remove the entry for ''Cactus, fruit''.

■ v. Add alphabetically the entry ''Celtuce''.

■ vi. Remove the entry for ''Cilantro, fresh leaves''.

■ vii. Revise the entry for ''Coffee, green bean''.

■ viii. Add alphabetically the entries ''Fennel, florence, fresh leaves and stalk''; ''Kohlrabi'' and ''Leaf petiole vegetable subgroup 22B''.

■ ix. Remove the entries for ''Leaf petioles, subgroup 4B'' and ''Leafy greens, subgroup 4A''.

■ x. Add alphabetically the entries ''Leafy greens subgroup 4–16A'' and ''Pineapple''.

■ xi. Remove the entry for ''Pitaya''.

■ xii. Add alphabetically the entries ''Rapeseed subgroup 20A''; ''Sesame, seed''; ''Stalk and stem vegetable subgroup 22A, except prickly pear, pads, and prickly pear, Texas, pads''; ''Sunflower subgroup 20B''; ''Tropical and subtropical, inedible peel, cactus, subgroup 24D'' and ''Tropical and subtropical, palm fruit, edible peel, subgroup 23C''.

■ xiii. Remove the entry for ''Turnip greens''.

■ xiv. Add alphabetically the entry ''Vegetable, *brassica,* head and stem, group 5–16''.

■ b. In paragraph (c):

■ i. Add a heading for the table.

■ ii. Add alphabetically the entry ''Grass, forage, fodder and hay, group 17''.

■ The additions and revisions read as follows:

§ 180.679 Flupyradifurone; tolerances for residues.

(a) * * *

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
* * * * * * *	
Brassica, leafy greens, subgroup 4–16B	40
* * * * * * *	
Celtuce	9
Coffee, green bean	1.5
* * * * * * *	
Fennel, florence, fresh leaves and stalk	9
* * * * * * *	
Kohlrabi	6
Leaf petiole vegetable subgroup 22B	9
Leafy greens subgroup 4–16A	30
* * * * * * *	
Pineapple	0.3
* * * * * * *	
Rapeseed subgroup 20A	0.03
Sesame, seed	3
* * * * * * *	
Stalk and stem vegetable subgroup 22A, except prickly pear, pads, and prickly pear, Texas, pads	0.01
Sunflower subgroup 20B	0.7
* * * * * * *	
Tropical and subtropical, inedible peel, cactus, subgroup 24D	0.3
* * * * * * *	
Tropical and subtropical, palm fruit, edible peel, subgroup 23C	8
Vegetable, brassica, head and stem, group 5–16	6
* * * * * * *	

* * * * *

(c) * * *

TABLE 3 TO PARAGRAPH (c)

Commodity	Parts per million
* * * * *	
Grass, forage, fodder and hay, group 17	15

* * * * *

[FR Doc. 2020–17153 Filed 8–20–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 200221–0062]

RTID 0648–XA414

Fisheries of the Exclusive Economic Zone off Alaska; Sablefish in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of sablefish by vessels using trawl gear and not participating in the cooperative fishery of the Rockfish Program in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary because the 2020 total allowable catch of sablefish allocated to vessels using trawl gear and not participating in the cooperative fishery of the Rockfish Program in the Central Regulatory Area of the GOA has been reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), August 18, 2020, through 2400 hours, A.l.t., December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2020 total allowable catch (TAC) of sablefish allocated to vessels using trawl gear and not participating in the cooperative fishery of the Rockfish Program in the Central Regulatory Area of the GOA is 626 metric tons (mt) as established by the final 2020 and 2021

harvest specifications for groundfish of the GOA (85 FR 13802, March 10, 2020).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2020 TAC of sablefish allocated to vessels using trawl gear and not participating in the cooperative fishery of the Rockfish Program in the Central Regulatory Area of the GOA will be reached. Therefore, NMFS is requiring that sablefish caught by vessels using trawl gear and not participating in the cooperative fishery of the Rockfish Program in the Central Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b). This closure does not apply to fishing by vessels participating in the cooperative fishery of the Rockfish Program for the Central Regulatory Area of the GOA.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the prohibited retention of sablefish by vessels using trawl gear and not participating in the cooperative fishery of the Rockfish Program in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 17, 2020.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 18, 2020.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2020–18399 Filed 8–18–20; 4:15 pm]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 85, No. 163
Friday, August 21, 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

Food Safety and Inspection Service

[Docket No. FSIS–2020–0027]

National Advisory Committee on Meat and Poultry Inspection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notification of public meeting.

SUMMARY: Pursuant to the provisions of the rules and regulations of the Department of Agriculture and the Federal Advisory Committee Act (FACA), the Food Safety and Inspection Service (FSIS) is announcing a virtual meeting of the National Advisory Committee on Meat and Poultry Inspection (NACMPI). The committee is authorized under the Federal Meat Inspection Act and Poultry Products Inspection Act and operates in compliance with the Federal Advisory Committee Act. The committee will convene virtually on September 24–25, 2020. The objective of the public meeting is for the Committee to review and advise about the steps FSIS should take to ensure better control of artisanal, shelf-stable ready-to-eat (RTE) fermented, salt-cured, or dried products that rely on multiple hurdles for lethality. NACMPI will also review and advise whether the Agency should continue not to test boxed beef primal and sub-primal products for Shiga toxin-producing *E. coli* (STEC), if they are intended for intact cuts.

DATES: The virtual public meeting is scheduled for September 24–25, 2020. NACMPI will meet from 8 a.m.–9:30 a.m. EST on September 24, 2020 for administrative purposes. This portion of the meeting is not open to the public. The public meeting is from 9:30 a.m.–5 p.m. EST on September 24, 2020 and 9 a.m.–5 p.m. EST on September 25, 2020.

ADDRESSES: The meeting is virtual and will be viewed via the web-ex link provided by email when you register for the meeting. Attendees should pre-register for the meeting. See the pre-registration instructions under ''Registration and Meeting Materials.''

Public Comments: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

Federal eRulemaking Portal: This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.

Email: Written public comments may be emailed to *NACMPI@usda.gov.* All written comments are to arrive by September 18, 2020. All items submitted by electronic mail must include the Agency name and docket number FSIS–2020–0027. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Val Green, Designated Federal Officer, Office of Policy and Program Development, FSIS; Telephone: (301) 504–0846; Email: *Valeria.Green@usda.gov,* regarding specific questions about the committee or this meeting. General information about the committee can also be found at: *https://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/advisory-committees/nacmpi.*

For the hearing impaired, contact the Federal Information Relay Service: *https://www.federalrelay.us/* or 800–877–0996 (Voice, TTY, ASCII or Spanish).

SUPPLEMENTARY INFORMATION:

Background

The NACMPI was established in 1971 and is authorized under section 301(a)(4) of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 661(a)(4)) to carry out the responsibilities imposed by sections 7(c), 24, 205, 301(a)(3), and 301(c) of the FMIA (21 U.S.C. 607(c), 624, 645, 661(a)(3), and 661(c)), and authorized under section 5(s)(4) of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 454(a)(4) to carry out the responsibilities imposed by sections 5(a)(3), 5(c), 8(b), and 11(e) of the PPIA (21 U.S.C. 454(a)(3), 454(c), 457(b), and 460(e)). The purpose of the Committee is to provide advice to the Secretary concerning meat, poultry, and processed egg products inspection; food safety; and other matters that fall within the scope of the FMIA, PPIA and the Egg Products Inspection Act (EPIA). The current charter and other information about NACMPI can be found at *https://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/advisory-committees/nacmpi.* Membership of NACMPI is drawn from representatives of consumer groups; producers; processors; and representatives from the meat, poultry and egg product industries; State and local government officials; and academia.

On September 24–25, 2020, NACMPI will review and discuss the following two topics. First, FSIS will ask NACMPI to review and advise about the steps FSIS should take to better support the production of artisanal, shelf-stable, ready-to-eat (RTE) fermented, salt-cured, or dried products that rely on multiple hurdles for lethality. FSIS is seeking input on the lack of scientific support and control of hazards for producing these multi-hurdle lethality products that may raise enforcement questions. FSIS will ask the Committee to consider the following: (1) What actions should FSIS take when it determines an establishment lacks scientific support for the lethality treatment of a fermented, salt-cured, or dried product? (2) How can FSIS assist industry in gathering scientific support and facilitate filling research gaps, even though it is not a research-funding organization?

Second, FSIS will ask NACMPI to review and advise whether FSIS should continue not to sample or test boxed beef primal and sub-primal products for STEC, if they are intended for intact cuts. FSIS is seeking input on how FSIS can reduce STEC positives, outbreaks, recalls, and deaths that occur when downstream processors are commonly unaware of the producer's intended intact use or the risks of grinding such products. FSIS will ask the Committee: (1) If an establishment identifies boxed beef primals/sub-primal products as intended for intact cuts, should FSIS continue not to sample or test these

products? (2) If yes, how can the current system be strengthened? (3) If no, what criteria should FSIS use to determine which products should be subject to sampling and testing for STEC?

The two issues described above will be presented to the full Committee. The Committee will then divide into two subcommittees to discuss the issues. Each subcommittee will provide a report of their comments and recommendations to the full Committee before the meeting concludes on Friday, September 25, 2020.

An agenda will be published online before the public meeting. FSIS will finalize the agenda on or before the meeting dates and post it on the FSIS website at: *http://www.fsis.usda.gov/meetings.*

Registration and Meeting Materials

There is no fee to register for the public meeting, but pre-registration is mandatory for participants attending. All attendees must register online at *http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings.*

Public Comments and Participation in Meetings

Oral Comments

Stakeholders will have an opportunity to provide oral comments during the public meeting. Stakeholders must notify FSIS during registration of their wish to speak at the meeting. Stakeholders who do not notify FSIS during registration of their wish to speak will not have the opportunity to comment on the day of the public meeting. Due to the anticipated high level of interest in the opportunity to make public comments and the limited time available to do so, FSIS will do its best to accommodate all persons who registered and requested to provide oral comments and will limit all speakers to three minutes. FSIS encourages persons and groups who have similar interests to consolidate their information for presentation by a single representative.

Transcripts

As soon as the meeting transcripts are available, they will be accessible on the FSIS website at: *https://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/advisory-committees/nacmpi/nacmpi-transcripts.* The transcripts may also be viewed at the FSIS Docket Room at the address listed above.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Dated: August 18, 2020.

Cikena Reid,

Committee Management Officer.

[FR Doc. 2020–18389 Filed 8–20–20; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Equal Opportunity Compliance Review Record

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the information collection, *Equal Opportunity Compliance Review Record.*

DATES: Comments must be received in writing on or before October 20, 2020 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Civil Rights, Mail Stop 1142, USDA, Forest Service, 1400 Independence Avenue SW, Washington, DC 20250–1142.

Comments also may be submitted via facsimile to 703–605–5174 or by email to: *Christopher.moore@usda.gov.*

Comments submitted in response to this notice may be made available to the public through relevant websites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may inspect the draft supporting statement and/or comments received at USDA, Forest Service, Civil Rights, 201 14th St. SW, Room 2S, Washington, DC 20024 during normal business hours. Visitors are encouraged to call ahead to 202–205–8534 to facilitate entry to the building. The public may request an electronic copy of the draft supporting statement and/or

any comments received be sent via return email. Requests should be emailed to *Christopher.Moore@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Christopher Moore, Civil Rights by email at *Christopher.Moore@usda.gov* or by phone at 703–605–4858. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Equal Opportunity Compliance Review Record.

OMB Number: OMB–0596–New.

Expiration Date of Approval: 11/30/2018.

Type of Request: New.

Abstract: All Federal agencies must comply with equal opportunity laws:

- Title VI of the Civil Rights Act of 1964, as amended;
- Title IX of the Education Amendments Act of 1972;
- The Age Discrimination Act of 1975, as amended;
- Section 504 of the Rehabilitation Act of 1973, as amended; and
- Executive orders prohibiting discrimination in the delivery of all program and services to the public.

Federal agencies and entities receiving Federal Financial Assistance are prohibited from discriminating. Federal Financial Assistance is defined as, ''Federal monies given by grants, cooperative agreements, commercial special use permits, training, loan/temporary assignment of Federal personnel, loan/use of Federal property at below market value.''

The equal opportunity laws require agencies to conduct compliance reviews to ensure that entities receiving Federal Financial Assistance from the government are adhering to the nondiscrimination statues. The statutes require that prior to awarding support or issuing permits, the Federal government shall conduct pre-award reviews to ensure that potential recipients understand their responsibilities to provide services equitable pursuant to the law. Thereafter, during the partnership with the agency, ongoing monitoring will take place to ensure the public is being served without any barriers or discrimination.

Forest Service employees will use form FS–1700–6, Equal Opportunity Compliance Review Record, to document demographics (race, ethnicity, and gender) and collect information regarding actions taken by recipients of Federal financial assistance to ensure the public receives services without discrimination or barriers to access, and that recipients' employees understand their customer services role.

Collection will occur during face-to-face meetings or telephone interviews conducted by Forest Service employees as part of the pre-award and post award process. The pre-award interview will take place prior to the award of a grant, signing of a cooperative agreement, letting of commercial special use permit, or similar activity. The post award interview will take place once every 5 years, or upon report/discovery of discrimination.

The information collected will only be shared with other Federal agencies who share in the financial assistance activities with the Forest Service. Monitoring reviews have been a responsibility of the Federal government since 1964. Without the ability to monitor recipients of Federal financial assistance, the Forest Service would not be able to ensure compliance with laws and statutes. The Agency would not be aware of potential violations, thereby resulting in potential discriminatory practices.

Affected Public: Recipients of Federal financial assistance.

Estimate of Burden per Response: One.

Estimated Annual Number of Respondents: 11,000.

Estimated Annual Number of Responses per Respondent: One.

Estimated Total Annual Burden on Respondents: 11,000.

Comment is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the 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 the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: August 14, 2020.

Ricky Balolong,

Acting Civil Rights Director.

[FR Doc. 2020–18317 Filed 8–20–20; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Business Cooperative Service

Rural Housing Service

Rural Utilities Service

[Docket No. RBS–20–BUSINESS–0033]

Implementation of Certain Provisions of Consolidated Appropriations Act, 2020 Specific to Persistent Poverty Counties

AGENCY: Rural Business-Cooperative Service, Rural Housing Service and Rural Utilities Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces implementation of certain provisions published in the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94) related to persistent poverty counties served by Rural Business-Cooperative Service (RBSC), Rural Housing Service (RHS) and the Rural Utilities Service (RUS) agencies of the Rural Development mission area of the United States Department of Agriculture, USDA, sometimes collectively hereinafter referred to as ''Agency'' or ''the Agency.''

DATES: The provisions of this notice are applicable August 21, 2020.

FOR FURTHER INFORMATION CONTACT: For information specific to this notice contact Michele Brooks, Director, Regulations Management, Rural Development Innovation Center—Regulations Management, USDA, 1400 Independence Avenue SW, STOP 1522, Room 4266, South Building, Washington, DC 20250–1522. Telephone: (202) 690–1078. Email *michele.brooks@wdc.usda.gov.* For information regarding implementation contact your respective Rural Development State Office listed here: *http://www.rd.usda.gov/browse-state.*

SUPPLEMENTARY INFORMATION:

Background

Rural Development improves the quality of life in rural America by offering loans, grants and loan guarantees to help create jobs and support economic development and essential services such as housing; health care; first responder services and equipment; and water, electric and

communications infrastructure. The Agencies programs promote economic development by supporting loans to businesses through banks, credit unions and community-managed lending pools. Many of Rural Development's programs offer priority funding for loans and grants located in persistent poverty counties. The term ''persistent poverty counties'' means any county that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990 and 2000 decennial census and 2007–2011 American Community Survey 5-year average, or any territory or possession of the United States.

The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94) enacted on December 20, 2019, contained provisions affecting persistent poverty counties and the allocation of funds for persistent poverty counties.

This notice announces implementation of the following provisions:

Allocation of Funds

The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94) provides that to the maximum extent feasible, at least 10 percent of the funds allocated to the listed programs shall be allocated for assistance to persistent poverty counties.

Population Limits

Notwithstanding any other provision in the listed programs regarding population limits, section 740 of the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94) provides that for any county seat in a persistent poverty county that has a population that does not exceed the program's authorized population limit by more than 10 percent will be considered eligible for that program.

The listed programs are the Rural Housing Insurance Fund Program Account from which the Agency has set aside Fiscal Year 2020 appropriated funds for the following programs: Direct Single Family Housing Loans (sec 502); Very Low-Income Housing Repair Loans (sec. 504); Rural Rental Housing Direct Loan Program (sec. 515); Housing Site Development Loans (sec. 524); and, Self-Help Housing Land Development Loans (sec. 523); Mutual and Self-Help Housing Grants; Rural Housing Assistance Grants from which the Agency has set aside Fiscal Year 2020 appropriated funds for the Very Low-Income Housing Repair (sec. 504) and Rural Housing Preservation (sec. 533); Rural Community Facilities Program Account from which the Agency has set aside Fiscal Year 2020 appropriated funds for Community Facilities Grants; Rural Business Program Account from which the Agency has set aside Fiscal Year 2020 appropriated funds for the following programs: Rural Business Development Grants—Business Enterprise Grants; Federally Recognized Native American Tribes, Rural Business Development Grants—Business Enterprise Grants; Grants to Delta Regional Authority; and, Grants to Appalachian Regional Commissions; Rural Economic Development Loans Program Account from which the Agency has set aside Fiscal Year 2020 appropriated funds for Rural Economic Development Loans; Rural Cooperative Development Grants from which the Agency has set aside Fiscal Year 2020 appropriated funds for Rural Cooperative Development Grants, Grants to Assist Socially Disadvantaged, and Value-Added Agricultural Product Market Development Grants; WWD Program Account from which the Agency has set aside Fiscal Year 2020 appropriated funds for Direct Water and Waste Disposal Loans, Water and Waste Disposal Grants, and Federally Recognized Native American Tribes Water and Waste Disposal Grants (sec. 306C(a)(1)); Rural Electrification and Telecommunications Loans Program Account from which the Agency has set aside Fiscal Year 2020 appropriated funds for Telecommunications Program Direct, Treasury Rate loans; and, Distance Learning and Telemedicine and Broadband Program from which the Agency has set aside Fiscal Year 2020 appropriated funds for Delta Health Care Services Grants and Broadband Telecommunications Grants.

The Agency, if applicable, will, with the publication of program funding announcements, provide guidance on qualifying for and, scoring criteria for persistent poverty areas. If no program funding announcement will be published, then the Agency will provide such guidance on the program's website.

Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, familial/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

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Bette Brand,

Deputy Under Secretary, Rural Development.

[FR Doc. 2020–18395 Filed 8–20–20; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Form ED–209, Revolving Loan Fund Financial Report

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Notice of Information Collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's

reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB. The Economic Development Administration (EDA) proposes to extend Form ED–209, Revolving Loan Fund (RLF) Financial Report, to continue collecting limited performance information from EDA RLF award recipients.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before October 20, 2020.

ADDRESSES: Interested persons are invited to submit written comments to Mitchell Harrison, Program Analyst, Performance and National Programs Division, Economic Development Administration, U.S. Department of Commerce, via email to *MHarrison@eda.gov.* You may also submit comments to *PRAcomments@doc.gov.* You may submit attachments to electronic comments in Microsoft Word, Excel, and Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Mitchell Harrison, Program Analyst, Performance and National Programs Division, Economic Development Administration, U.S. Department of Commerce, at (202) 428–4696 or via email to *MHarrison@eda.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Guided by the basic principle that sustainable economic development should be locally-driven, the Economic Development Administration (EDA) works directly with communities and regions to help them build the capacity for economic development based on local business conditions and needs.

The EDA Revolving Loan Fund (RLF) Program, authorized under section 209 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3149), has served as an important pillar of EDA investment programs since the establishment of the RLF Program in 1975. The purpose of the RLF Program is to provide regions with a flexible and continuing source of capital, to be used with other economic development tools, for creating and retaining jobs and inducing private investment that will contribute to long-term economic stability and growth. EDA provides RLF grants to eligible recipients, which include State and local governments, Indian Tribes, and non-profit organizations, to operate a lending program that offers loans with flexible repayment terms, primarily to small businesses in distressed communities that are unable to obtain traditional bank financing. These loans enable small businesses to expand and lead to new employment opportunities that pay competitive wages and benefits.

A unique feature of the RLF Program is that the federal interest in RLF awards does not terminate. EDA RLF regulations therefore require RLF recipients to submit to EDA Form ED–209, RLF Financial Report, which collects limited performance information for RLF awards (13 CFR 307.14(a)). EDA currently requires Form ED–209 to be submitted on an annual basis for high-performing RLFs and on a semi-annual basis for other RLFs.

EDA is currently in the process of awarding numerous new grants to capitalize RLFs. This has increased the estimated number of respondents that will be required to submit Form ED–209 and the estimated number of burden hours associated with Form ED–209. On March 27, 2020, Congress enacted the Coronavirus Aid, Relief, and Economic Security Act (Pub. L. 116–136), appropriating $1,500,000,000 in supplemental funds to EDA to ''prevent, prepare for, and respond to coronavirus . . . including for necessary expenses for responding to economic injury as a result of coronavirus.'' EDA is using a significant portion of those funds to fund RLF awards. As a result, the number of respondents required to submit Form ED–209 will increase substantially. Although Form ED–209 is being extended without change, and the estimated amount of time required to complete Form ED–209 remains unchanged at three hours, the estimated annual burden hours for Form ED–209 is increasing because of the increased number of RLF awards and respondents required to complete Form ED–209.

II. Method of Collection

Currently, RLF recipients must complete and submit Form ED–209 using an EDA-provided fillable PDF (Portable Document Format) form. However, EDA anticipates transitioning to an online platform for reporting through which RLF recipients will be required to submit the information collected by Form ED–209.

III. Data

OMB Control Number: 0610–0095.

Form Number(s): ED–209.

Type of Review: Extension of a currently approved information collection.

Affected Public: EDA RLF recipients: State and local governments, Indian Tribes, and non-profit organizations.

Estimated Number of Respondents: 1,700.

Estimated Time per Response: 3 hours.

Estimated Total Annual Burden Hours: 5,100.

Estimated Total Annual Cost to Public: $294,984 (cost assumes application of U.S Bureau of Labor Statistics first quarter 2020 mean hourly employer costs for employee compensation for professional and related occupations of $57.84).

Respondent's Obligation: Mandatory.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

All comments submitted in response to this notice are a part of the public record and will be made available to the public, which may include posting them on the *Regulations.gov* website. Comments will generally be posted without change. Please do not include information of a confidential nature, such as sensitive personal information or proprietary information. All Personally Identifiable Information (for example, name and address) voluntarily submitted may be publicly accessible. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket. Please note that comments that include a message stating the confidentiality of the communication will be treated as public comments and will be made available to the public.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–18363 Filed 8–20–20; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–897; C–580–898]

Large Diameter Welded Pipe from the Republic of Korea: Final Results of Antidumping Duty and Countervailing Duty Changed Circumstances Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On July 10, 2020, the Department of Commerce (Commerce) published a notice of initiation and expedited preliminary results of the changed circumstances reviews (CCRs) of the antidumping duty (AD) and countervailing duty (CVD) orders on large diameter welded pipe from the Republic of Korea (Korea) which revoked, in part, these orders as they relate to certain specific large diameter welded pipe products. Commerce has adopted the scope exclusion language in these final results.

DATES: Applicable August 21, 2020.

FOR FURTHER INFORMATION CONTACT: Katherine Johnson or Sergio Balbontin, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4929 or (202) 482–6478, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2019, Commerce published the AD and CVD orders on large diameter welded pipe from Korea.[1] On July 10, 2020, Commerce published the *Initiation and Preliminary Results,*[2] in which Commerce preliminarily revoked, in part, the *Orders* with respect to certain large diameter welded pipe products with specific combinations of grades, diameters, and wall thicknesses, pursuant to a request from SeAH Steel Corporation (SeAH). These products are specified in the exclusion language of the scope provided in the *Initiation and Preliminary Results.*[3]

SeAH placed on the record of these CCRs comments made by domestic producers,[4] representing ''substantially all'' of the domestic industry[5] in the CCRs of large diameter welded pipe from India. These comments indicate that the domestic industry does not currently produce the particular large diameter welded pipe products subject to the request for partial revocation of the *Orders,* and that the investment needed to do so far exceeds the potential benefit of such investment, given that the U.S. market for deep offshore projects, *i.e.,* the primary market for the large diameter welded pipe product groups at issue, is relatively small.[6] In addition, in these same comments, the domestic producers provided an explanation indicating that commercial circumstances have changed since the *Orders* were put in place.

Consistent with the CCRs of large diameter welded pipe from India and Greece, in the *Initiation and Preliminary Results,* we found that there was ''good cause'' to conduct the CCRs less than 24 months after the date of publication of notices of the final determinations in the Korea large diameter welded pipe investigations.[7] In addition, in the *Initiation and Preliminary Results,* we provided all interested parties an opportunity to comment and to request a public hearing regarding our preliminary findings.[8] No interested party submitted comments or requested a public hearing.

Scope of the Orders

The merchandise covered by these *Orders* is welded carbon and alloy steel pipe (other than stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded line pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded line pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded line pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of these *Orders,* whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the *Orders* if performed in the country of manufacture of the in-scope large diameter welded pipe.

Excluded from the scope are any products covered by the existing antidumping duty order on welded line pipe from the Republic of Korea. *See Welded Line Pipe from the Republic of Korea and the Republic of Turkey: Antidumping Duty Orders,* 80 FR 75056 (December 1, 2015).[9]

Also excluded is large diameter welded pipe in the following combinations of grades, outside diameters, and wall thicknesses:

- Grade X60, X65, or X70, 18 inches outside diameter, 0.688 inches or greater wall thickness;

[1] *See Large Diameter Welded Pipe from the Republic of Korea: Amended Final Affirmative Antidumping Determination and Antidumping Duty Order,* 84 FR 18767 (May 2, 2019); and *Large Diameter Welded Pipe from the Republic of Korea: Countervailing Duty Order,* 84 FR 18773 (May 2, 2019) (collectively, *Orders*).

[2] *See Large Diameter Welded Pipe from the Republic of Korea: Initiation and Expedited Preliminary Results of Antidumping and Countervailing Duty Changed Circumstances Reviews,* 85 FR 41536 (July 10, 2020) (*Initiation and Preliminary Results*).

[3] *Id* at Attachment.

[4] These domestic producers are the petitioners in the AD and CVD investigations (American Cast Iron Pipe Company, Berg Steel Pipe Corp./Berg Spiral Pipe Corp., Dura-Bond Industries, Stupp Corporation, individually and as members of the American Line Pipe Producers Association; Greens Bayou Pipe Mill, LP; JSW Steel (USA) Inc.; Skyline Steel; and Trinity Products LLC) and Welspun Global Trade LLC.

[5] *See* SeAH's Letter, ''Large Diameter Welded Pipe from Korea—Request for Changed Circumstances Review and Revocation, in Part,'' dated June 11, 2020 at Exhibits 1–3. Commerce has interpreted ''substantially all'' to mean at least 85 percent of the total production of the domestic like product covered by the order. *See, e.g., Supercalendered Paper from Canada: Final Results of Changed Circumstances Review and Revocation of Countervailing Duty Order,* 83 FR 32268 (July 12, 2018).

[6] *See Initiation and Preliminary Results,* 85 FR at 41538.

[7] *See* 19 CFR 351.216(c). *See also Large Diameter Welded Pipe from India: Final Results of Antidumping Duty and Countervailing Duty Changed Circumstances Reviews,* 85 FR 26930 (May 6, 2020); *Large Diameter Welded Pipe from Greece: Final Results of Antidumping Duty Changed Circumstances Review,* 85 FR 37424 (June 22, 2020); and *Initiation and Preliminary Results,* 85 FR at 41537–38.

[8] *See Initiation and Preliminary Results,* 85 FR at 41538.

[9] This paragraph does not appear in the scope of the CVD order on large diameter welded pipe from Korea.

- Grade X60, X65, or X70, 20 inches outside diameter, 0.688 inches or greater wall thickness;
- Grade X60, X65, X70, or X80, 22 inches outside diameter, 0.750 inches or greater wall thickness; and
- Grade X60, X65, or X70, 24 inches outside diameter, 0.750 inches or greater wall thickness.

The large diameter welded pipe that is subject to these *Orders* is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these *Orders* is dispositive.

Final Results of CCRs

Commerce may modify the scope of an AD and/or CVD order as a result of conducting a CCR.[10] For the reasons stated in the *Initiation and Preliminary Results,* Commerce continues to find that it is appropriate to revoke the *Orders,* in part, in accordance with section 782(h)(2) of the Act and 19 CFR 351.222(g)(1)(i), with respect to certain large diameter welded pipe products with specific combinations of grades, diameters, and wall thicknesses, as reflected in the ''Scope of the Order'' section of this notice.

We will instruct U.S. Customs and Border Protection to terminate the suspension of liquidation for all shipments of the products which are revoked from the *Orders* as a result of these CCRs that were entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We intend for all entries of the revoked products that were suspended on or after the date of publication of this notice to be liquidated without regard to antidumping duties (*i.e.,* refund all cash deposits).

Notification to Interested Parties

We are issuing this determination and publishing these final results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Act and 19 CFR 351.216(e), 351.221(b), 351.221(c)(3), 351.222(g)(1) and 351.222(g)(4).

Dated: August 13, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–18385 Filed 8–20–20; 8:45 am]

BILLING CODE 3510–DS–P

[10] *See Carbon and Alloy Steel Wire Rod from the Republic of Korea and the United Kingdom: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 84 FR 13888 (April 8, 2019); *see also Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review,* 84 FR 49508 (September 20, 2019).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–501]

Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Notice of Court Decision Not in Harmony With Amended Final Results of Review; Amended Final Results of Administrative Review of the Antidumping Duty Order on Welded Carbon Steel Standard Pipe and Tube Products From the Republic of Turkey, 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On July 28, 2020, the U.S. Court of International Trade (CIT) sustained the Department of Commerce (Commerce)'s third remand redetermination pertaining to the administrative review of welded carbon steel standard pipe and tube products (welded pipe and tube) from the Republic of Turkey (Turkey) covering the period of review (POR) May 1, 2014 through April 30, 2015. Commerce is notifying the public that the CIT's final judgment is not in harmony with the amended final results of the administrative review, and that Commerce is amending the weighted-average dumping margin for Toscelik Profil ve Sac Endustrisi A.S. (Toscelik).

DATES: Applicable August 7, 2020.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney, 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) 482–4475.

SUPPLEMENTARY INFORMATION:

Background

On December 20, 2016, Commerce published the *Final Results* in the 2014–2015 administrative review of welded pipe and tube from Turkey, in which Commerce calculated a weighted-average dumping margin of 1.91 percent.[1] After correcting ministerial errors contained in the *Final Results,* on February 17, 2017, Commerce published the *Amended Final Results,* and calculated a revised weighted-average dumping margin of 3.40 percent for Toscelik.[2]

Toscelik and the JMC Steel Group (a domestic interested party) appealed Commerce's *Final Results,* as amended by the *Amended Final Results,* to the CIT. On June 6, 2018, the CIT issued its *First Remand Order,* directing Commerce to: (1) Reconsider the calculation of Toscelik's duty drawback adjustment; and (2) provide further explanation for granting Toscelik a circumstance-of-sale adjustment for warehousing expenses.[3] On October 4, 2018, Commerce submitted its final results of redetermination, recalculating Toscelik's duty drawback adjustment, under respectful protest,[4] and providing further explanation for granting a circumstance-of-sale adjustment for warehousing expenses.[5]

On April 1, 2019, the CIT issued its *Second Remand Order,* sustaining Commerce's explanation of Toscelik's circumstance-of-sale for adjustment for warehousing expenses, but remanding Commerce's modified calculation of Toscelik's duty drawback adjustment.[6] In particular, the CIT found that Commerce's additional circumstance-of-sale adjustment to correct a perceived imbalance in Toscelik's dumping margin calculation ''negates the statutory duty drawback adjustment that Toscelik earned by exporting its finished product to the United States and impinges on the agency's ability to make a fair comparison.'' [7] On May 30, 2019, Commerce submitted its second final results of redetermination, recalculating Toscelik's duty drawback adjustment, including a circumstance-

[1] *See Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Administrative Review; 2014–2015,* 81 FR 92785 (December 20, 2016) (*Final Results*), and accompanying Issues and Decision Memorandum.

[2] *See Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Amended Final Results of Antidumping Duty Administrative Review; 2014–2015,* 82 FR 11002 (February 17, 2017) (*Amended Final Results*).

[3] *See Toscelik Profil ve Sac Endustrisi A.S.* v. *United States,* 321 F. Supp. 3d 1270 (CIT 2018) (*First Remand Order*) at 17–18.

[4] *See Viraj Group, Ltd.* v. *United States,* 343 F.3d 1371 (Fed. Cir. 2003).

[5] *See* Final Results of Redetermination Pursuant to Court Remand, *Toscelik Profil ve Sac Endustrisi A.S.* v. *United States,* Court No. 17–00018, Slip Op. 18–66 (CIT June 6, 2018).

[6] *See Toscelik Profil ve Sac Endustrisi A.S.* v. *United States,* 375 F. Supp. 3d 1312 (CIT 2019) (*Second Remand Order*).

[7] *See Second Remand Order,* 375 F. Supp. 3d at 1316.

of-sale adjustment to account for the imbalance between the amount of import duties included in U.S. price as a result of the duty drawback adjustment and the amount of import duties reflected in normal value.[8]

On December 18, 2019, in its *Third Remand Order,* the CIT ordered Commerce to recalculate normal value without making a circumstance-of-sale adjustment related to the duty drawback adjustment made to U.S. price.[9] On March 13, 2020, in the third results of redetermination, Commerce granted Toscelik a duty drawback adjustment, without making a circumstance-of-sale adjustment to account for the imbalance between the U.S. duty drawback adjustment and the amount of import duties reflected in normal value.[10] Additionally, Commerce added an imputed cost for import duties to the cost of production.[11] This amount is based on Toscelik's cost of manufacturing during the POR for pipe and tube and was calculated as the ratio of the total amount of Toscelik's exempted import duties and its cost of manufacturing during the POR. On July 28, 2020, the CIT sustained Commerce's third results of redetermination, and entered final judgment.[12]

Timken Notice

In its decision in *Timken,*[13] as clarified by *Diamond Sawblades,*[14] the Court of Appeals for the Federal Circuit held that, pursuant to section 516A of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of 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 July 28, 2020, final judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Amended Final Results.*[15] Thus, this notice is published in fulfillment of the publication requirements of *Timken* and section 516A of the Act.

Amended Final Results of Review

Because there is now a final court judgment, Commerce is amending its *Amended Final Results* with respect to Toscelik as follows:

Exporter or producer	Weighted-average dumping margin (percent)
Toscelik Profil ve Sac Endustrisi A.S.	0.00

Cash Deposit Requirements

Because Toscelik has a superseding cash deposit rate, *i.e.,* there have been final results published in a subsequent administrative review for Toscelik, this notice will not affect the current cash deposit rate for Toscelik.

Liquidation of Suspended Entries

If the CIT's final judgment is not appealed, or if appealed and upheld, because Toscelik's amended weighted-average dumping margin is zero percent, Commerce will instruct CBP to terminate the suspension of liquidation, and to liquidate and to assess duties at a rate of zero for entries during the POR that were produced and exported by Toscelik.

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by Toscelik for which Toscelik did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[16]

Lastly, at this time, Commerce remains enjoined by Court order from liquidating entries that: (1) Were the subject of the administrative determination published in the *Final Results,* as amended by the *Amended Final Results;*[17] (2) were produced and/or exported by any of the following: Toscelik Profil ve Sac Endustrisi A.S.; Tosyali Dis Ticaret A.S.; Tubeco Pipe and Steel Corporation; and Toscelik Metal Ticaret A.S.; (3) were entered, or were withdrawn from warehouse, for consumption on or after May 1, 2014 through and including April 30, 2015; and (4) remain unliquidated as of 5:00 p.m. Eastern Time on February 17, 2017.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c)(1) and (e), 751(a) and 777(i) of the Act.

Dated: August 13, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–18384 Filed 8–20–20; 8:45 am]

BILLING CODE 3510–DS–P

[8] *See* Final Results of Redetermination Pursuant to Court Remand, *Toscelik Profil ve Sac Endustrisi A.S.* v. *United States,* Court No. 17–00018, Slip Op. 19–41 (CIT April 1, 2019) (Second Redetermination).

[9] *See Toscelik Profil ve Sac Endustrisi A.S.* v. *United States,* 415 F. Supp. 3d 1395 (CIT 2019) (*Third Remand Order*).

[10] *See* Final Results of Redetermination Pursuant to Court Remand, *Toscelik Profil ve Sac Endustrisi A.S.* v. *United States,* Court No. 17–00018, Slip Op. 19–166 (CIT December 18, 2019) (Third Redetermination).

[11] *Id.*

[12] *See Toscelik Profil ve Sac Endustrisi A.S.* v. *United States,* Court No., 17–00018, Slip Op. 20–105 (CIT July 28, 2020) (CIT Final Judgment).

[13] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[14] *See Diamond Sawblades Manufacturers Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[15] *See* CIT Final Judgment.

[16] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[17] *See Final Results,* 81 FR at 92785; *see also Amended Final Results,* 82 FR at 11002.

DEPARTMENT OF COMMERCE

International Trade Administration

United States Investment Advisory Council Meeting

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (FACA), this notice announces, the United States Investment Advisory Council (Council) will hold a virtual meeting on Thursday, September 10, 2020.

DATES: Thursday, September 10, 2020, 10:00–11:30 a.m. EDT. The deadline for members of the public to register, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting is 5:00 p.m. EDT on September 3, 2020.

ADDRESSES: The meeting will be held virtually due to the current COVID–19 pandemic. Requests to register (including to speak) and any written comments should be submitted to: United States Investment Advisory Council, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 30011, Washington, DC 20230, and emailed to: *IAC@trade.gov.* Members of the public are encouraged to submit registration requests and written comments via email to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT: David Weil, United States Investment Advisory Council, Room 30011, 1401 Constitution Avenue NW, Washington, DC 20230, telephone 202–768–1906.

SUPPLEMENTARY INFORMATION: The United States Investment Advisory Council (Council) was established by the Secretary of Commerce (Secretary) pursuant to duties imposed by 15 U.S.C. 1512 upon the Department and in compliance with the Federal Advisory

Committee Act, as amended, 5 U.S.C. App.

The Council advises the Secretary on matters relating to the promotion and retention of foreign direct investment in the United States. At the meeting, members will provide updates on the work they have done to present in identifying and deliberating on policy priorities regarding the facilitation of foreign direct investment into the United States. These policy priorities include deregulation and the streamlining of processes that affect business investment opportunities across U.S. regions, the facilitation of infrastructure investment, workforce development, and mechanisms to increase investment competitiveness for domestic manufacturing companies, in addition to other topics. The agenda may change to accommodate Council business. The final agenda will be posted on the Department of Commerce website for the Council at: *http://trade.gov/IAC,* at least one week in advance of the meeting.

Public Participation: The meeting will be open to the public and will be accessible to people with disabilities. All guests are required to register in advance by the deadline identified under the **DATES** caption. Requests for auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted but may be impossible to fill. There will be fifteen (15) minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for public comments may be limited to three (3) minutes per person. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name and address of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers.

Speakers are requested to submit a written copy of their prepared remarks by 5:00 p.m. EDT on September 3, 2020, for inclusion in the meeting records and for circulation to the Members of the Council.

In addition, any member of the public may submit pertinent written comments concerning the Council's affairs at any time before or after the meeting. Comments may be submitted to David Weil at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5:00 p.m. EDT on September 3, 2020, to ensure transmission to the Council members prior to the meeting. Comments received after that date and time will be distributed to the members but may not be considered during the meeting. Comments and statements will be posted on the United States Investment Advisory Council website (*http://trade.gov/IAC*) without change, including any business or personal information provided such as it includes names, addresses, email addresses, or telephone numbers.

All comments and statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make publicly available.

Copies of Council meeting minutes will be available within 90 days of the meeting.

David Weil,

United States Investment Advisory Council.

[FR Doc. 2020–18359 Filed 8–20–20; 8:45 am]

BILLING CODE 3510–DR–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products and services from the Procurement List previously furnished by such agencies.

DATES: *Date added to and deleted from the Procurement List:* September 20, 2020.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 3/27/2020, 5/1/2020 and 7/17/2020, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.
2. The action will result in authorizing small entities to furnish the products and services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

NSN(s)—Product Name(s)
6515–01–NIB–2636—Exam Light, Tactical, For CLS 6545–01–677–4906 Only
Mandatory Source of Supply: Lighthouse Works, Orlando, FL
Contracting Activity: DEFENSE LOGISTICS AGENCY, DLA TROOP SUPPORT
NSN(s)—Product Name(s)
160001400S—ProPack, Rack and Hooks Kit, Army
Mandatory Source of Supply: Crowder Industries, Inc., Neosho, MO
Contracting Activity: DEPT OF THE ARMY, W6QK ACC–APG NATICK

Services

Service Type: Facility Maintenance Support
Mandatory for: U.S. Marshals Service, William F. Degan Tactical Operations Center, Pineville, LA
Mandatory Source of Supply: Rising Star Resource Development Corporation, Dallas, TX
Contracting Activity: U.S. MARSHALS SERVICE, U.S. DEPT OF JUSTICE,

USMS

Deletions

On 6/26/2020 and 7/17/2020, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the products and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and services deleted from the Procurement List.

End of Certification

Accordingly, the following products and services are deleted from the Procurement List:

Products

NSN(s)—Product Name(s)
3030–01–017–4340—Belt, V-shaped, EPDM Rubber, Notched/A2 Cog, Neoprene, 38.3''
3030–01–146–7057—Joined Belt, V-shaped, EPDM Rubber, VA Cross Section, Notched/A2 Cog, Neoprene, 47.96''
3030–01–200–6004—Belt, V-shaped, Joined, EPDM Rubber, RA Cross Section, Notched/A2 Cog, 42.53''
3030–01–387–5760—Belt, V-shaped, EPDM Rubber, HC41 Cross Section, Notched/A2 Cog, Neoprene, 34.58''
Mandatory Source of Supply: East Texas Lighthouse for the Blind, Tyler, TX
Contracting Activity: DLA LAND AND MARITIME, COLUMBUS, OH
NSN(s)—Product Name(s)
7520–01–483–8993—Stand, Calendar Pad, for 3'' × 3–3/4'' refill, Black
Mandatory Source of Supply: LC Industries, Inc., Durham, NC
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY
NSN(s)—Product Name(s)
4220–00–926–9468—Vest, Life Preserver, USN, Red, Medium
Mandatory Source of Supply: Mississippi Industries for the Blind, Jackson, MS
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA
NSN(s)—Product Name(s)
4220–00–926–9468—Vest, Life Preserver, USN, Red, Medium
Mandatory Source of Supply: Lions Volunteer Blind Industries, Inc., Morristown, TN
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA
NSN(s)—Product Name(s)
MR 402—Bag, Shopping Tote, Laminated, Small, ''Live Sweet''
MR 403—Bag, Shopping Tote, Laminated, Small, ''Live Well''
MR 404—Bag, Shopping Tote, Laminated, Large, ''Live Spicy''
MR 405—Bag, Shopping Tote, Laminated, Fresh, ''Live Fresh''
MR 406—Bag, Shopping Tote, Laminated, Large, ''Live Sweet''
Mandatory Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI
Contracting Activity: Military Resale-Defense Commissary Agency

Services

Service Type: Administrative Services
Mandatory for: Milwaukee Federal Building and U.S. Courthouse, Milwaukee, WI
Mandatory Source of Supply: Milwaukee Center for Independence, Inc., Milwaukee, WI
Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR
Service Type: Janitorial/Custodial
Mandatory for: Internal Revenue Service: 11631 Caroline Road, Philadelphia, PA
Mandatory Source of Supply: UNKNOWN
Contracting Activity: TREASURY, DEPARTMENT OF THE, DEPT OF TREAS/
Service Type: Telephone/Switchboard Operator
Mandatory for: VA Northern California Health Care System, Martinez, CA
Mandatory Source of Supply: Project Hired, San Jose, CA
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, 261–NETWORK CONTRACT OFFICE 21
Service Type: Telephone/Switchboard Operator
Mandatory for: Department of Veterans Affairs, VA Northern California Health Care System, 10535 Hospital Way, Sacramento, CA
Mandatory Source of Supply: Project Hired, San Jose, CA
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, 261–NETWORK CONTRACT OFFICE 21
Service Type: Document Destruction
Mandatory for: VA North Clinic: 916 W Owens Avenue, Las Vegas, NV
Mandatory for: VA Central Clinic: 901 Rancho Lane, Las Vegas, NV
Mandatory for: VA Administration: 1841 E. Craig Road, Ste. B Warehouse, Las Vegas, NV
Mandatory for: VA Administration #2: 2455 W. Cheyenne, Ste. 102, Las Vegas, NV
Mandatory for: VA West Clinic: 630 S Rancho Road, Las Vegas, NV
Mandatory for: VA Loma Linda Healthcare System: 11201 Benton Street, Loma Linda, CA
Mandatory Source of Supply: Goodwill Industries of Southern California, Panarama City, CA
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, NAC
Service Type: Janitorial/Custodial
Mandatory for: Defense Enterprise Computing Center (DECC) Mechanicsburg: Building 504B, Mechanicsburg, PA
Mandatory for: Defense Enterprise Computing Center (DECC) Mechanicsburg: Building 309T, Mechanicsburg, PA
Mandatory Source of Supply: Goodwill Services, Inc., Harrisburg, PA
Contracting Activity: DEFENSE INFORMATION SYSTEMS AGENCY (DISA), IT CONTRACTING DIVISION–PL83

Michael R. Jurkowski,
Deputy Director, Business & PL Operations.

[FR Doc. 2020–18361 Filed 8–20–20; 8:45 am]
BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products and services previously furnished by such agencies.

DATES: *Comments must be received on or before:* September 20, 2020.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons

an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Services

Service Type: Janitorial Service
Mandatory for: FAA, Denver Air Traffic Control Tower/Base Building and TRACON/Generator Building, Denver, CO
Mandatory Source of Supply: Bayaud Industries, Inc., Denver, CO
Contracting Activity: FEDERAL AVIATION ADMINISTRATION, 697DCK REGIONAL ACQUISITIONS SVCS
Service Type: Base Supply Center and Retail Gift Shop
Mandatory for: Bureau of Alcohol, Firearms, Tobacco and Explosives, Washington, DC
Mandatory Source of Supply: Virginia Industries for the Blind, Charlottesville, VA
Contracting Activity: ATF ACQUISITION AND PROPERTY MGMT DIV, ATF

Deletions

The following products and services are proposed for deletion from the Procurement List:

Products

NSN(s)—Product Name(s)
MR 10638—Carrot and Dip To Go, Includes Shipper 20638
MR 10651—Saver, Lemon
MR 10671—Celery and Dip To Go, Includes Shipper 20671
MR 10744—Container, Snack, Pigout, Includes Shipper 20744
MR 10767—Saver, Grapefruit, Includes Shipper 20767
MR 11102—Bags, Roasting, Includes Shipper 21102
Mandatory Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Contracting Activity: Military Resale-Defense Commissary Agency

Services

Service Type: Laundry Service
Mandatory for: Health & Human Services Supply Center, Perry Point, MD
Mandatory Source of Supply: Rappahannock Goodwill Industries, Inc., Fredericksburg, VA
Contracting Activity: HEALTH AND HUMAN SERVICES, DEPARTMENT OF, DEPT OF HHS
Service Type: Administrative Services
Mandatory for: General Services Administration: 200 Chestnut Street, Philadelphia, PA
Mandatory Source of Supply: Elwyn, Aston, PA
Contracting Activity: PUBLIC BUILDINGS SERVICE, GSA/PBS/R03 NORTH SERVICE CENTER
Service Type: Latrine Services
Mandatory for: Stryker National Logistics Center, Auburn, WA
Mandatory Source of Supply: Skookum Educational Programs, Bremerton, WA
Contracting Activity: DEPT OF THE ARMY, W4GG HQ US ARMY TACOM

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2020–18362 Filed 8–20–20; 8:45 am]

BILLING CODE 6353–01–P

INTERNATIONAL DEVELOPMENT FINANCE CORPORATION

[DFC–015]

Submission for OMB Review; Comments Request

AGENCY: U.S. International Development Finance Corporation (DFC).

ACTION: Notice of Information Collection; request for comment.

SUMMARY: Under the provisions of the Paperwork Reduction Act, agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency is creating a new information collection for OMB review and approval and requests public review and comment on the submission. Comments are being solicited on the need for the information; the accuracy of the burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received by October 20, 2020.

ADDRESSES: Comments and requests for copies of the subject information collection may be sent by any of the following methods:

• *Mail:* Joanna M. Reynolds, Agency Submitting Officer, U.S. International Development Finance Corporation, 1100 New York Avenue NW, Washington, DC 20527.

• *Email: fedreg@dfc.gov.*

Instructions: All submissions received must include the agency name and agency form number or OMB form number for this information collection. Electronic submissions must include the agency form number in the subject line to ensure proper routing. Please note that all written comments received in response to this notice will be considered public records.

FOR FURTHER INFORMATION CONTACT: Agency Submitting Officer: Joanna M. Reynolds, (202) 357–3979.

SUPPLEMENTARY INFORMATION: This notice informs the public that DFC will submit to OMB a request for approval of the following information collection.

Summary Form Under Review

Title of Collection: MTU Intake Questionnaire.

Type of Review: New information collection.

Agency Form Number: DFC–015.

OMB Form Number: Not assigned, new information collection.

Frequency: Once per potential client per project.

Affected Public: Business or other for-profit; not-for-profit institutions.

Total Estimated Number of Annual Number of Respondents: 130.

Estimated Time per Respondent: 1 hour.

Total Estimated Number of Annual Burden Hours: 130 hours.

Abstract: The MTU Intake Questionnaire is the principal document used to collect information from potential clients seeking support from the Mission Transaction Unit (MTU) of DFC. MTU works together with USAID missions and operating units to promote and advance the agencies' development objectives around the world.

Dated: August 18, 2020.

Nichole Skoyles,

Administrative Counsel, Office of the General Counsel.

[FR Doc. 2020–18408 Filed 8–20–20; 8:45 am]

BILLING CODE 3210–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0136]

Agency Information Collection Activities; Comment Request; Formula Grant EASIE Electronic Application System for Indian Education

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 proposing a revision to an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 20, 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–0136. 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 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Crystal Moore, 202–453–5593.

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: Formula Grant EASIE Electronic Application System for Indian Education.

OMB Control Number: 1810–0021.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: State, Local and Tribal Organizations.

Total Estimated Number of Annual Responses: 11,300.

Total Estimated Number of Annual Burden Hours: 7,050.

Abstract: The Indian Education Formula Grant (CFDA 84.060A) requires the annual submission of the application from the local educational agency and/or tribe. The amount of each applicant's award is determined by formula, based upon the reported number of American Indian/Alaska Native students identified in the application, the state per pupil expenditure, and the total appropriation available. Applicants provide the data required for funding electronically, and the Office of Indian Education (OIE) is able to apply electronic tools to facilitate the review and analysis leading to grant awards. This change request will result in a reduction in burden of 1,950 hours and $39,000 for the public. The change in burden is due to technical changes in the forms that made them electronically fillable and a reduction in the number of questions in the collection.

Dated: August 18, 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. 2020–18421 Filed 8–20–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Institutional Resilience and Expanded Postsecondary Opportunity Grants Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications (NIA) from eligible applicants for fiscal year (FY) 2020 for Institutional Resilience and Expanded Postsecondary Opportunity (IREPO) Grants under section 18004(a)(3) of the Higher Education Emergency Relief Fund of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act or Act), Catalog of Federal Domestic Assistance (CFDA) number 84.425P. This notice relates to the approved information collection under OMB control number 1840–0848.

DATES:

Applications Available: August 21, 2020.

Deadline for Notice of Intent to Apply: September 10, 2020.

Deadline for Transmittal of Applications: October 20, 2020.

Pre-Application Information: The Department will post additional information for prospective applicants on the IREPO program website: *https://www2.ed.gov/about/offices/list/ope/heerfirepo.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: Karen Epps, U.S. Department of Education, 400 Maryland Avenue SW, 250–64, Washington, DC 20202. Telephone: (202) 453–6337. Email: *Karen.Epps@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 the IREPO Grants, offered under section 18004(a)(3) of the CARES Act and the Fund for the Improvement of Postsecondary Education (FIPSE), is to provide financial support to institutions of higher education (IHEs) with the greatest unmet needs related to coronavirus to enable them to resume operations, serve the needs of students, reduce disease transmission, and develop more resilient instructional delivery models, such as distance learning, to continue educating students who cannot or choose not to attend classroom-based instruction due to coronavirus.

This program contains one absolute priority. In addition, there are three competitive preference priorities that allow for up to three points to be awarded for each of two competitive priorities and up to ten points for one

competitive priority, for a cumulative total of up to sixteen competitive preference points.

Background: Section 18004(a)(3) of the CARES Act directs the Secretary to allocate 2.5 percent of the $14.2 billion Higher Education Emergency Relief Fund (HEERF) funds appropriated by the Act to provide grants to institutions under part B of title VII of the Higher Education Act of 1965, as amended (HEA), for institutions that the Department has determined have the greatest unmet needs related to coronavirus. Part B of title VII of the HEA establishes the FIPSE. FIPSE grants, including grants under this program, are limited to institutions of higher education, as defined in section 101 of the HEA.

FIPSE grants are required, by statute, to support improvements in higher education through reforms, improvements, or innovations in postsecondary education programs, opportunities, and delivery models. Section 18004(a)(3) of the CARES Act provides funding specifically for the FIPSE program, and section 18004(d) of the Act directs the Secretary to give priority to IHEs that received less than $500,000 combined under the IHE formula grants authorized by section 18004(a)(1) of the CARES Act and the grants authorized by section 18004(a)(2) of the Act and that demonstrate the greatest unmet needs related to expenses associated with coronavirus.

Read together, section 18004(a)(3) and (d) of the CARES Act gives the Department discretion to determine which public and not-for-profit IHEs that are eligible for FIPSE grants should receive section 18004(a)(3) IREPO grants. Given the statutory directive to the Department to provide priority to institutions that received less than $500,000 from the other HEERF grants, the Department's general understanding that all IHEs have been significantly impacted by the coronavirus national emergency, and to facilitate the expedient delivery of emergency funds to IHEs, the Department, in its discretion, decided to provide section 18004(a)(3) grant awards to all eligible IHEs (public and not-for-profit institutions) that had received less than $500,000 collectively from the other HEERF grants, in amounts that would mean that each such IHE would receive $500,000 total from all its HEERF grants. The Department has already announced a first round of allocations under section 18004(a)(3) specifically for institutions that received less than $500,000 combined under the grants authorized by section 18004(a)(1) and (a)(2). Section 18004(a)(3) allows for a broad range of uses for IREPO grants, by stating that they may be used ''to defray expenses (including lost revenue, reimbursement for expenses already incurred, technology costs associated with a transition to distance education, faculty and staff trainings, payroll) incurred by IHEs and for grants to students for any component of the student's cost of attendance (as defined under section 472 of the Higher Education Act), including food, housing, course materials, technology, health care, and child care.''

To disburse the remainder of the $348.8 million set aside for section 18004(a)(3) awards, the Department believes it should run a grant competition that complies with the requirements of the FIPSE grant program, in that the use of these funds will result in improvements in postsecondary education and opportunity, and that complies with the requirements of the CARES Act in giving priority to institutions with the greatest unmet needs related to coronavirus. Section 18004(a)(3) does not define the term ''greatest unmet needs related to coronavirus.'' While section 18004(a)(3) allows funds to be used to ''defray expenses'' and for ''grants to students,'' given that Congress chose FIPSE as the program through which these grants would be issued, expenditures under this program may be used to defray expenses associated with coronavirus, but must also result in improvements in postsecondary education. As a result, the Department believes it is reasonable to establish priorities, selection criteria, definitions, and other requirements for the IREPO Grant Program competition that would serve the IHEs with the greatest unmet coronavirus-related needs and support the purpose of improving postsecondary education in response to coronavirus-related challenges.

For the purpose of this program, we define institutions with the greatest unmet needs related to coronavirus as those that—

(1) Had a student population enrolled at the beginning of the term that included March 13, 2020, or, if that date occurred during a break between terms, at the beginning of the term immediately prior to the break which included March 13, 2020, in which more than 30 percent of full-time students received a Pell Grant; and/or

(2) Were underserved by other CARES Act programs either because—

(a) The institution did not receive a loan under the Paycheck Protection Program established by the CARES Act; and/or

(b) The institution serves large numbers of part-time students and, as such, received a reduced per-student allocation under section 18004(a)(1) of the CARES Act relative to institutions of the same or similar total enrollment that serve mostly full-time students; and

(c) Had other unmet needs due to the novel coronavirus, as described by the institution in its application.

The Department will provide grants to individual eligible institutions or consortia of two or more eligible institutions.

Starting in March 2020, the novel coronavirus forced nearly all the Nation's secondary and postsecondary institutions to expand their use of, or transition fully to, remote learning. While some IHEs already had a significant online presence prior to the COVID–19 national emergency, others had little experience in delivering distance learning. For those institutions, the move to distance learning represented an abrupt and costly shift to a new instructional model that may have required the institution to purchase or lease equipment; develop or procure a learning management system; develop or procure distance learning content; train faculty and staff to engage in instruction and student support using technology; provide equipment; and pay internet access fees on behalf of students.

In addition, the shift to distance learning left many campuses with empty campus facilities, required them to refund portions of student tuition and fees, and reduced their revenue streams from ancillary programs and services. The Department is generally aware that there is a concern that student enrollments will continue to decline as a result of COVID–19 related disruptions among IHEs.[1] [2] Therefore, new efforts are required to help institutions become more resilient in the face of continuing COVID–19 or other similar interruptions and to develop more cost-effective models of operation to make higher education more affordable. This program seeks to support those efforts for institutions that have the highest unmet needs related to coronavirus.

In the case of secondary schools, few had experience in providing instruction through distance learning, and many schools either ceased providing instruction to students for several weeks, ended the school year early, or

[1] *https://www.forbes.com/sites/richardvedder/2020/04/07/500-1000-colleges-to-disappear-survival-of-the-fittest/#a0d019411a1.*

[2] *https://www.mckinsey.com/industries/social-sector/our-insights/covid-19-and-us-higher-education-enrollment-preparing-leaders-for-fall#.*

transitioned to distance learning but reduced learning expectations and rigor in an effort to accommodate their lack of experience in providing distance education. Unfortunately, this means that even more students are likely to graduate from high school underprepared for the demands of postsecondary education, thereby reducing the rates at which they enter, persist through, and complete postsecondary education, including career and technical education.

Research shows that students who enter college having participated in concurrent enrollment programs are more likely to complete high school, enroll directly in four-year institutions, persist in postsecondary education, and accumulate more college credit, and these students are less likely to need developmental education as matriculated undergraduate students.[3] Therefore, the Department sees an opportunity to address this unmet need by encouraging IHEs to expand dual enrollment opportunities, thus compensating for deficiencies of the Nation's K–12 system in serving students through distance learning during the national emergency, and increasing student readiness for, and success in pursuing, postsecondary education. Such efforts will also help stabilize enrollments at participating IHEs. For this reason, one of the competitive preference priorities for this program is the development or expansion of high-quality concurrent or dual enrollment programs, including career and technical education programs, for high school students who can earn college credits while earning their high school diploma.

In addition, the Department recognizes the stabilizing force the Historically Black Colleges and Universities (HBCUs), minority serving institutions (MSIs), and other institutions that are eligible to participate in title III or title V programs have in their communities. As such, institutions that are eligible to participate in title III or title V programs, and that are either located in a rural community or Opportunity Zone, or serve high school students through dual enrollment who live in or attend high school in a rural community or Opportunity Zone, including home schooled students, are given a competitive preference.

Applicants are encouraged to develop innovative solutions that expand remote learning opportunities, including for dual enrollment students. The proposed project design should be supported by evidence that meets the standard of demonstrates a rationale (as defined in this notice). Applications may provide a framework that identifies key components on how the proposed strategy, program, or activity is informed by research or by the positive outcomes of earlier efforts that are similar to or serve as the foundation for the proposed project.[4] These positive outcomes must suggest that the proposed activity is likely to improve relevant outcomes (as defined in this notice). We encourage evidence that demonstrates a rationale for the proposed activity to ensure that some preliminary work has been done to demonstrate the merit of the proposal, while at the same time inviting the broadest possible range of innovative solutions that may not yet have been tested at scale or evaluated through experimental or quasi-experimental design.

Priorities: This notice contains one absolute priority and three competitive preference priorities. We are establishing these priorities for the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

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

Expanding Opportunity and Building Institutional Resilience.

Projects that will provide financial support to IHEs with the greatest unmet needs related to coronavirus to enable them to resume operations, serve the needs of students, reduce disease transmission, and/or implement safe and effective instructional delivery models, that will enable safe in-person learning and expand remote learning opportunities when necessary.

Competitive Preference Priorities: These priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional sixteen points to an application, depending on how well the application meets these priorities.

These priorities are:

Competitive Preference Priority 1—Developing Resilient Instructional Delivery Models. (0–3 points)

Projects that propose to use grant funds to expand the institution's capacity to develop or expand instructional delivery models, such as remote learning opportunities, to students who cannot or choose not to attend classroom-based instruction both during and after the COVID–19 national emergency. Under section 741(a)(3) of the HEA, the Secretary is authorized to make grants to improve postsecondary education through the establishment and continuation of institutions, programs, consortia, collaborations, and other joint efforts that utilize distance education and technological advancements to educate and train postsecondary students (including health professionals serving medically underserved populations). Under section 741(a)(5) of the HEA, the Secretary is authorized to make grants to improve postsecondary education through the design and introduction of cost-effective methods of instruction and operation. Consistent with these statutory goals, this competitive preference priority addresses both an institution's need to respond to disruptions in instruction related to coronavirus, and the FIPSE goals of introducing or expanding the use of technology, and potentially reducing the cost of instructional delivery using such mechanisms.

Competitive Preference Priority 2—Providing Dual Enrollment Opportunities to Students Who Live or Attend School in a Rural Community or Opportunity Zone. (0–10 points)

Projects that provide high-quality postsecondary dual enrollment opportunities, which may include career and technical education programs, to high school students who live in or attend high school (including students who are homeschooled) in rural communities or Opportunity Zones. For purposes of this competition, a community is ''rural'' if the community meets the qualifications for rural applicants established in section 114(e)(5)(A) of the Carl D. Perkins Career and Technical Education Act of 2006, as amended by the Strengthening Career and Technical Education for the 21st Century Act, and the applicant certifies that it meets those qualifications in its application. To receive points for proposing to serve students who live in or attend high school in an Opportunity Zone, applicants must provide the census tract number(s) of the relevant Qualified Opportunity Zone, as designated by the Secretary of the Treasury under section 1400Z–1 of the Internal Revenue Code. This competitive preference priority aligns with section 741(a)(6) of the HEA,

[3] *https://ccrc.tc.columbia.edu/media/k2/attachments/broadening-benefits-dual-enrollment-rp.pdf.*

[4] This type of action can also be described as a logic model, as defined by 34 CFR 77.1.

which authorizes the Secretary to make grants to support the introduction of institutional reforms designed to expand individual opportunities for entering and reentering postsecondary institutions and pursuing programs of postsecondary study tailored to individual needs.

Competitive Preference Priority 3—Title III and Title V Participating Institutions. (0–3 points)

Projects that—

(a) Are led by an institution that is eligible to receive assistance under title III or under title V of the HEA (3 points);

(b) Include as a consortium partner more than one such institution (2 points); or

(c) Include as a consortium partner one such institution (1 point).

Definitions: The definitions of ''baseline,'' ''demonstrates a rationale,'' ''performance measure,'' ''performance target,'' ''project component,'' and ''relevant outcome'' are from 34 CFR 77.1. The definition of ''institution of higher education'' is from section 101 of the HEA. We are establishing the definition of ''distance education,'' for the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1).

Baseline means the starting point from which performance is measured and targets are set.

Distance education means—

(1) Education that uses one or more of the technologies listed in paragraphs (2)(i) through (iv) of this definition to deliver instruction to students who are separated from the instructor or instructors and to support regular and substantive interaction between the students and the instructor or instructors, either synchronously or asynchronously.

(2) The technologies that may be used to offer distance education include—

(i) The internet;

(ii) One-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;

(iii) Audio conference; or

(iv) Other media used in a course in conjunction with any of the technologies listed in paragraph (2)(i) through (iii) of this definition.

(3) For purposes of this definition, an instructor is an individual responsible for delivering course content and who meets the qualifications for instruction established by an institution's accrediting agency.

(4) For purposes of this definition, substantive interaction is engaging students in teaching, learning, and assessment, consistent with the content under discussion, and also includes at least two of the following—

(i) Providing direct instruction;

(ii) Assessing or providing feedback on a student's coursework;

(iii) Providing information or responding to questions about the content of a course or competency;

(iv) Facilitating a group discussion regarding the content of a course or competency; or

(v) Other instructional activities approved by the institution's or program's accrediting agency.

(5) An institution ensures regular interaction between a student and an instructor or instructors by, prior to the student's completion of a course or competency—

(i) Providing the opportunity for substantive interactions with the student on a predictable and regular basis commensurate with the length of time and the amount of content in the course or competency; and

(ii) Monitoring the student's academic engagement and success and ensuring that an instructor is responsible for promptly and proactively engaging in substantive interaction with the student when needed on the basis of such monitoring, or upon request by the student.

Institution of higher education (IHE) means—

(a) An educational institution in any State that—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who meet the requirements of section 484(d) of the HEA;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association or, if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) The term also includes:

(1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of paragraphs (1), (2), (4), and (5) of paragraph (a) of this definition; and

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in paragraph (a)(1) of this definition, admits as regular students individuals—

(A) Who are beyond the age of compulsory school attendance in the State in which the institution is located; or

(B) Who will be dually or concurrently enrolled in the institution and a secondary school.

Performance measure means any quantitative indicator, statistic, or metric used to gauge program or project performance.

Performance target means a level of performance that an applicant would seek to meet during the course of a project or as a result of a project.

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

Application Requirements: The following application requirements are established for the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1). Applicants must—

(1) Provide information about the number and percentage of the institution's students (or the number and percentage of students at each institution in a consortium) who were enrolled in title IV eligible programs during the term immediately prior to the term or scheduled break between terms in which March 13, 2020 occurred and were eligible to receive a Pell grant;

(2) Were underserved by other CARES Act programs either because—

(a) The institution did not receive a loan under the Paycheck Protection

Program authorized by the CARES Act; and/or

(b) The institution serves large numbers of part-time students and, as such, received a reduced per-student allocation under section 18004(a)(1) of the CARES Act relative to institutions of the same or similar size (meaning total enrollments) that serve mostly full-time students; and

(c) Had other unmet needs relative to the novel coronavirus, as described by the institution in its application.

(3) Include a description of the institution's (or consortium of institutions') unmet needs related to the coronavirus not captured under (2);

(4) Include a timeline for implementing key elements of the applicant's proposed project under the absolute priority, as well as metrics by which the institution will measure its success in implementing the project and improving student outcomes; and

(5) Assure that the applicant will provide information to the Secretary, as requested, for evaluations that the Secretary may carry out.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities, selection criteria, definitions, and other requirements. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under section 18004(a)(3) of the CARES Act, and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the priorities, requirements, definitions, and selection criteria under section 437(d)(1) of GEPA.

Program Authority: Section 18004(a)(3) of Division B of the CARES Act, Public Law 116–36 (enacted March 27, 2020).

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.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $28,000,000. These estimated available funds are the amount available for approximately 19 grants under the FY 2020 CARES Act. The Department will determine the number of awards to be made under the absolute priority based on the quality of applications received, and consistent with the selection criteria and competitive preference priorities. It will also determine the size of an award made to an eligible applicant based on a review of the eligible applicant's budget.

Estimated Range of Awards: $1,000,000–$3,000,000.

Estimated Average Size of Awards: $1,500,000.

Estimated Number of Awards: 19.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

III. Eligibility Information

1. *Eligible Applicants:* The eligible applicant is an IHE as defined in section 101 of the HEA, or a consortium of such IHEs.

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 contain 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 timely awards.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

Under section 741(d) of the HEA, no funds made available under this part may be used to provide direct financial assistance in the form of grants or scholarships to students who do not meet the requirements of section 484(a) of the HEA. However, nothing in that section prevents a student who does not meet the requirements of section 484(a) from participating in programs funded under this part.

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 25 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, references, and captions.
- 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 letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative.

5. *Notice of Intent to Apply:* We will be able to develop a more efficient process for reviewing grant applications if we know the approximate number of applicants that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify us of the applicant's intent to submit an application by sending an email to *Karen.Epps@ed.gov* with *Intent to Apply* in the subject line. Applicants that do not send a notice of intent to apply may still apply for funding.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 or are established for the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1). The points assigned to each criterion are indicated in the parentheses next to the criterion. An applicant may earn up to a total of

95 points based on the selection criteria for the application.

A. *Greatest Unmet Needs.* (up to 30 points)

In determining the institutions that have the greatest unmet needs related to the coronavirus, the Secretary considers the extent to which the institution:

(1) Serves a population of students in which more than 30 percent of its undergraduate students received a Pell Grant.

(a) 30 percent to 40 percent (7 points).

(b) 41 percent to 50 percent (8 points).

(c) 51 percent to 60 percent (9 points).

(d) Greater than 60 percent (10 points).

(2) Did not receive a loan under the Paycheck Protection Program loan authorized by the CARES Act. (5 points)

(3) Serves a student population that includes large percentages of part-time students, thus resulting in a smaller allocation for the institution under section 18004(a)(1) of the CARES Act. The impact of the percentage of part-time student enrollment will be evaluated as follows:

(a) 20 to 30 percent of students in the institution's most recent IPEDS report were enrolled part-time or less (6 points).

(b) 31 to 40 percent of students in the institution's most recent IPEDS report were enrolled part-time or less (7 points).

(c) 41 to 50 percent of students in the institution's most recent IPEDS report were enrolled part-time or less (8 points).

(d) 51 to 60 percent of students in the institution's most recent IPEDS report were enrolled part-time or less (9 points).

(e) 60 percent or more of students in the institution's most recent IPEDS report were enrolled part-time or less (10 points).

(4) Provides additional information to demonstrate that the institution has significant unmet needs related to the coronavirus for reasons other than those outlined in factors (A)(1) to (3) above (up to 5 points).

(GEPA Waiver)

B. *Quality of the Project Services and Project Design.* (up to 40 points)

In determining the quality of the project services and the quality of the design of 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. (up to 5 points) (34 CFR 75.210)

In addition, the Secretary considers—

(1) The extent to which the proposed project is an exceptional approach to the absolute priority and includes a detailed project plan for addressing the absolute priority. (up to 10 points) (GEPA Waiver)

(2) 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. (up to 10 points) (34 CFR 75.210)

(3) The likelihood that the proposed activities will enable the institution to become more resilient to ongoing coronavirus impacts and future challenges and to reduce the cost of higher education for students and families served. (up to 10 points) (GEPA Waiver)

(4) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice. (up to 5 points) (34 CFR 75.210)

C. *Quality of the Management Plan and Adequacy of Resources.* (up to 25 points)

The Secretary considers the quality of the management plan and adequacy of resources for the proposed project.

In determining the quality of the management plan and adequacy of resources for the proposed project, the Secretary considers—

(1) 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. (up to 5 points) (34 CFR 75.210)

(2) The extent to which the budget is adequate to support the proposed project. (up to 5 points) (34 CFR 75.210)

(3) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (up to 5 points) (34 CFR 75.210)

(4) 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. (up to 10 points) (34 CFR 75.210)

2. *Proposed Use of Funds:* Applicants must describe the activities that will be supported with grant funds, consistent with allowable uses of funds under this program and the goals of the absolute priority.

3. *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).

Before making awards, we will screen applications submitted in accordance with the requirements in this notice to determine whether applications have met eligibility and other requirements. This screening process may occur at various stages of the process; applicants that are determined to be ineligible will not receive a grant, regardless of peer reviewer scores or comments.

Peer reviewers will read, prepare a written evaluation of, and score the assigned applications, using the selection criteria and competitive preference priorities provided in this notice.

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 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(c).

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) In addition to annual performance reporting, a grantee must comply with the monthly reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (FFATA), which will serve to discharge a grantee's quarterly reporting requirements under section 15011 of the CARES Act.

(c) 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.*

(d) 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:* We have established the following performance measures for the IREPO Grants program:

(1) The number of online classes offered by the institution prior to the novel coronavirus, and the number offered during the project period;

(2) The number of students enrolled in online classes prior to the novel coronavirus, and the number enrolled in online classes during the project period;

(3) Average annual cost of tuition and fees paid by all students during the 2019–2020 financial aid award year, and the average annual cost of tuition and fees paid by all students during the project period.

(4) Average annual Federal student loan size among students and parents who took title IV loans during the 2019–2020 financial aid award year and during the project period.

(5) Total enrollment at the institution at the beginning of the term in which the novel coronavirus national emergency was declared, or if that declaration took place during a break between terms, the enrollment at the institution at the beginning of the term prior to the break during which the national emergency was declared; and total enrollment during each term during the project period.

(6) For projects that include dual enrollment opportunities for students:

(a) The number of dual enrollment students served by the institution or consortium of institutions during the 2019–2020 award year, and the number of dual enrollment students served by the institution or consortium during the project period (disaggregated by gender, race, and whether or not they lived in or were educated in a rural community or Opportunity Zone);

(b) The total number of dual enrollment classes completed by students served by the project; the average number of classes completed by students served by the project; and the average number of college credits earned by those students as a result of this project; and

(c) The cost per student of each successfully completed dual enrollment class supported by these grant funds, including costs of instruction and costs of ancillary or support services (and any differences in cost between dual enrollment classes provided to students at their high school versus those provided to students by the grantee IHE).

In addition, applicants must propose project-specific performance measures and performance targets consistent with the objectives of the proposed project.

Applicants must provide the following information as directed under 34 CFR 75.110(b) and (c):

(a) Performance Measures. How each proposed performance measure would accurately measure the performance of the project and how the proposed performance measures would be consistent with the performance measures established for the program funding the competition.

(b) Baseline Data.

(i) Why each proposed baseline is valid; or

(ii) If the applicant has determined that there are no established baseline data for a particular performance measure, an explanation of why there is no established baseline and of how and when, during the project period, the applicant would establish a valid baseline for the performance measure.

(c) Performance Targets. Why each proposed performance target is ambitious yet achievable compared to the baseline for the performance measure and when, during the project period, the applicant would meet the performance target(s).

(d) Data Collection and Reporting.

(i) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data; and

(ii) The applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

All grantees must submit an annual performance report with information that is responsive to these performance measures.

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 the Office of Postsecondary Education.

[FR Doc. 2020–18531 Filed 8–20–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–414–A]

Application To Export Electric Energy; Roctop Investments Inc.

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of application.

SUMMARY: Roctop Investments Inc. (Applicant or Roctop) has applied for renewal of its authorization to transmit electric energy from the United States to Canada pursuant to the Federal Power Act (FPA).

DATES: Comments, protests, or motions to intervene must be submitted on or before September 21, 2020.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to (202) 586–8008.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 42 U.S.C. 7172(f)). Such exports require authorization under section 202(e) of the FPA (16 U.S.C. 824a(e)).

On September 29, 2015, DOE issued Order EA–414, which authorized Roctop to transmit electric energy from the United States to Canada for a five-year term using existing international transmission facilities appropriate for open access. This authorization expires on September 29, 2020. On July 29, 2020, Roctop filed an application with DOE (Application or App.) for renewal of the export authorization contained in Order No. EA–414.

Roctop states that it ''is a Canadian company, created under a Canadian Federal Charter, with its principal place of business in Lefaivre, Ontario.'' App. at 2. Roctop adds that it ''does not have any affiliates or upstream owners that possess any ownership interest or have involvement in any other company that is a traditional utility or that owns, operates, or controls any electric generation, transmission, or distribution facilities.'' *Id.*

Roctop further states that it ''will purchase power to be exported from a variety of sources such as power marketers, independent power producers, or U.S. electric utilities and federal power marketing entities as those terms are defined in Sections 3(22) and 3(19) of the FPA.'' App. at 3. Roctop contends that ''such power is surplus to the system of the generator and, therefore, the electric power that Roctop will export on either a firm or interruptible basis will not impair the sufficiency of the electric power supply within the U.S.'' *Id.* at 3–4.

Roctop states that its exports ''will not exceed the export limits for the [permitted] facilities, or otherwise cause a violation of the terms and conditions'' that apply to the use of those facilities.'' App. at 5. Roctop also contends that its export activity will not impede or tend to impede the coordinated use of transmission facilities under the FPA because it ''has no electric power supply system on which the proposed exports could have a reliability, fuel use system or stability impact.'' *See id.* at 3.

The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning Roctop's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–414–A. Additional copies are to be provided directly to Ruta Kalvaitis Skučas, 1875 K St. NW, Suite 700, Washington, DC 20006; *rskucas@pierceatwood.com* and Vincent Thellen, 139 Du Domaine Road, Lefaivre, (ON) Canada K0B 1J0; *vincent@roctop.ca.*

A final decision will be made on the Application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE determines that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of the Application will be made available, upon request, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Matthew Aronoff at *matthew.aronoff@hq.doe.gov.*

Signed in Washington, DC, on August 17, 2020.

Christopher Lawrence,

Management and Program Analyst, Transmission Permitting and Technical Assistance, Office of Electricity.

[FR Doc. 2020–18377 Filed 8–20–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–281–C]

Application to Export Electric Energy; Manitoba Hydro

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of application.

SUMMARY: Manitoba Hydro (Applicant or Manitoba Hydro) has applied for authorization to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before September 21, 2020.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to (202) 586–8008.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 42 U.S.C. 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On November 17, 2010 DOE issues Order EA–281–B, which authorized Manitoba Hydro to transmit electric energy from the United States to Canada for a ten-year term using existing international transmission facilities appropriate for open access. This authorization expires on November 17, 2020. On July 2, 2020, Manitoba Hydro filed an application with DOE (Application or App.) for renewal of the export authorization contained in Order No. EA–281–B.

Manitoba Hydro states that it ''is a Canadian Crown Corporation created pursuant to The Manitoba Hydro Act.'' App. at 1. Manitoba Hydro adds that it ''does not own, control or operate any generation, transmission or other facilities in the United States.'' *Id.*

Manitoba Hydro further states that it ''will purchase the power to be exported from electric utilities and federal power marketing agencies as those terms are defined in Sections 3(22) and 3(19) of the Federal Power Act [FPA].'' App. at 5. Manitoba Hydro contends that ''such power is surplus to the system of the generator and this will not impair the sufficiency of the electric power system within the United States.'' *Id.* Further, ''nor will moving the energy through the border systems and across the border to Canada impair the United States electric power supply system or impede coordinated use of regional facilities.'' App. at 5–6.

Manitoba Hydro agrees ''it will abide by the export limits contained in the relevant [proposed] export authorization for such facilities.'' App. at 6. Manitoba Hydro contends it will not impede or tend to impede the coordinated use of transmission facilities under the FPA because it ''has no 'system' of its own in the United States on which its exports of power could have a reliability, fuel use or stability impact.'' See App. at 4–5.

The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning Manitoba Hydro's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–281–C. Additional copies are to be provided directly to Michael Douglas, 360 Portage Avenue, Winnipeg, Manitoba, Canada R3C 0G8; *midouglas@hydro.mb.ca;* Jesse Halpern, 1909 K Street NW, Suite 600, Washington, DC 20006; *jhalpern@thompsoncoburn.com;* and Nicole S. Allen, 1909 K Street NW, Suite 600, Washington, DC 20006; *nallen@thompsoncoburn.com.*

A final decision will be made on the Application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE determines that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of the Application will be made available, upon request, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Matthew Aronoff at *matthew.aronoff@hq.doe.gov.*

Signed in Washington, DC, on August 18, 2020.

Christopher Lawrence,

Management and Program Analyst, Transmission Permitting and Technical Assistance, Office of Electricity.

[FR Doc. 2020–18381 Filed 8–20–20; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9052–4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed August 10, 2020, 10 a.m. EST Through August 17, 2020, 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20200168, Draft, FAA, CA, Bob Hope Hollywood Burbank Airport Replacement Passenger Terminal Project, Comment Period Ends: 10/05/2020, Contact: Edvige B. Mbakoup 424–405–7283.

EIS No. 20200169, Final, USAF, TX, F–35A Operational Beddown—Air Force Reserve Command, Review Period Ends: 09/21/2020, Contact: Mr. Hamid Kamalpour 210–925–273.

EIS No. 20200170, Draft, FAA, NY, LaGuardia Airport Access Improvement Project, Comment Period Ends: 10/05/2020, Contact: Andrew Brooks 718–553–2511.

EIS No. 20200171, Final, USACE, CA, Malibu Creek Ecosystem Restoration Study, Review Period Ends: 09/21/2020, Contact: Larry Smith 213–452–3846.

Amended Notice

EIS No. 20200165, Draft, USFS, ID, Stibnite Gold Project, Comment Period Ends: 10/13/2020, Contact: Brian Harris 208–634–6945.

Revision to FR Notice Published 08/14/2020; Correction to Comment Period Due Date from September 28, 2020 to October 13, 2020; Correction to Lead Agency Contact Phone Number from 208–879–6945 to 208–634–6945.

Dated: August 17, 2020.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2020–18367 Filed 8–20–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2020–0037; FRL–10013–82–OAR]

EPA Responses to Certain State Designation Recommendations for the 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard: Notice of Availability and Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and public comment period.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has posted our responses to certain state designation recommendations for the 2010 Sulfur Dioxide (SO_2) Primary National Ambient Air Quality Standard (NAAQS) on the Agency's website and electronic docket. These responses include our intended designations for the affected areas, specifically all remaining undesignated areas for the 2010 SO_2 NAAQS in the United States. The EPA also invites the public to review and provide input on our intended designations during the comment period specified in the **DATES** section. The EPA sent its responses directly to the states on or about August 13, 2020. The EPA intends to make final designation determinations for the areas of the country addressed by these responses no later than December 31, 2020.

DATES: Comments must be received on or before September 21, 2020. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the comment period.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2020–0037, at *https://www.regulations.gov.*[1] Follow the online instructions for submitting comments. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov,* as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

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

FOR FURTHER INFORMATION CONTACT: For general questions concerning this action, please contact Corey Mocka, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Policy Division, 109 T.W. Alexander Drive, Mail Code C539–04, Research Triangle Park, NC 27711; telephone: (919) 541–5142; email address: *mocka.corey@epa.gov.* The following EPA contacts can answer questions regarding areas in a particular EPA Regional office:

U.S. EPA Regional Office Contacts

Region 2—Marina Castro, telephone (212) 637–3713, email at *castro.marina@epa.gov.*

Region 3—Megan Goold, telephone (215) 814–2027, email at *goold.megan@epa.gov.*

Region 4—Twunjala Bradley, telephone (404) 562–9352, email at *bradley.twunjala@epa.gov.*

Region 5—Alisa Liu, telephone (312) 353–3193, email at *liu.alisa@epa.gov.*

Region 6—Robert Imhoff, telephone (214) 665–7262, email at *imhoff.robert@epa.gov.*

Region 7—William Stone, telephone (913) 551–7714, email at *stone.william@epa.gov.*

Region 8—Rebecca Matichuk, telephone (303) 312–6867, email at *matichuk.rebecca@epa.gov.*

Region 9—Ashley R. Graham, telephone (415) 972–3877, email at *graham.ashleyr@epa.gov.*

Region 10—John Chi, telephone (206) 553–1185, email at *chi.john@epa.gov.*

Regional offices	Affected state(s)
EPA Region 2—Air Programs Branch, 290 Broadway, 25th Floor, New York, NY 10007	New York.
EPA Region 3—Planning & Implementation Branch, 1650 Arch Street, Philadelphia, PA 19103	Maryland, Pennsylvania, Virginia, and West Virginia.
EPA Region 4—Air Planning & Implementation Branch, Sam Nunn Atlanta Federal Center, 61 Forsyth Street SW, 12th Floor, Atlanta, GA 30303.	Alabama, Georgia, Kentucky, and North Carolina.
EPA Region 5—Air Programs Branch, Air & Radiation Division (AR–18J), 77 West Jackson Blvd., Chicago, IL 60604.	Illinois, Indiana, and Wisconsin.
EPA Region 6—State Planning & Implementation Branch, 1201 Elm Street, Dallas, TX 75270	Louisiana, Oklahoma, and Texas.
EPA Region 7—Air Quality Planning Branch, 11201 Renner Blvd., Lenexa, KS 66219	Missouri and Nebraska.
EPA Region 8—Air Quality Planning Branch, 1595 Wynkoop Street, Denver, CO 80202	North Dakota and Wyoming.
EPA Region 9—Air Planning Branch, 75 Hawthorne Street, San Francisco, CA 94105	Hawaii.
EPA Region 10—Air Planning & State/Tribal Coordinations Branch, 1200 Sixth Avenue, Mail Code OAQ–107, Seattle, WA 98101.	Washington.

[1] The *https://www.regulations.gov* platform is in the process of being upgraded. Users may be automatically redirected to *https://beta.regulations.gov.* Both website addresses contain the same information and both website addresses allow users to submit comments to the docket.

Most EPA offices are closed to reduce the risk of transmitting COVID–19, but staff remain available via telephone and email. The EPA encourages the public to review designation recommendations from states, our recent letters notifying the affected states of our intended designations, and area-specific technical support information online at *https://www.epa.gov/sulfur-dioxide-designations* and also in the public docket for these SO_2 designations at *https://www.regulations.gov* under Docket ID No. EPA–HQ–OAR–2020–0037.

SUPPLEMENTARY INFORMATION:

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The following is an outline of the Preamble.

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I. What is the purpose of this action?

The purpose of this notice of availability is to solicit input from interested parties on the EPA's recent responses to the state designation recommendations for the 2010 SO_2 NAAQS. These responses, and their supporting technical analyses, can be found at *https://www.epa.gov/sulfur-dioxide-designations* and also in the public docket for these SO_2 designations at *https://www.regulations.gov* under Docket ID No. EPA–HQ–OAR–2020–0037.

On June 2, 2010, the EPA Administrator signed a final rule that revised the primary SO_2 NAAQS (75 FR 35520; June 22, 2010) after review of the existing primary SO_2 standards promulgated on April 30, 1971 (36 FR 8187). The EPA established the revised primary SO_2 NAAQS at a level of 75 parts per billion (ppb) which is attained when the 3-year average of annual 99th percentile of daily maximum 1-hour average concentrations of SO_2 does not exceed 75 ppb.

The process for designating areas following promulgation of a new or revised NAAQS is contained in the Clean Air Act (CAA or Act) section 107(d) (42 U.S.C. 7407(d)). After promulgation of a new or revised NAAQS, each governor or tribal leader has an opportunity to recommend air quality designations, including the appropriate boundaries for nonattainment areas, to the EPA. The EPA considers these recommendations as part of its duty to promulgate the formal area designations and boundaries for the new or revised NAAQS. By no later than 120 days prior to promulgating designations, the EPA is required to notify states, territories, and tribes, as appropriate, of any intended modifications to an area designation or boundary recommendation that the EPA deems necessary.

After invoking a 1-year extension of the deadlines to designate areas, as provided for in section 107 of the Act, the EPA completed an initial round of SO_2 designations for certain areas of the country on July 25, 2013 (referred to as ''Round 1'').[2] Following the initial designations, three lawsuits were filed against the EPA in different U.S. District Courts, alleging the agency had failed to perform a nondiscretionary duty under the CAA by not designating all portions of the country by the June 2, 2013, deadline. In one of those cases, the U.S. District Court for the Northern District of California on March 2, 2015, entered an enforceable order for the EPA to complete the area designations by three specific deadlines according to the court-ordered schedule.[3]

To meet the first court-ordered deadline, additional areas were designated on June 30, 2016, and November 29, 2016 (collectively referred to as ''Round 2'').[4] To meet the second deadline of the court-ordered schedule, the EPA completed SO_2 designations for most remaining areas of the country on December 21, 2017, and March 28, 2018 (collectively referred to as ''Round 3'').[5] Finally, the EPA is under a December 31, 2020, court-ordered deadline, the final of the three deadlines established by the court, to designate all remaining undesignated areas (collectively referred to as ''Round 4'' or the ''final round''). The remaining undesignated areas are: (1) Those areas which, under the court order, did not meet the criteria that required designation in Round 2 and also were not required to be designated in Round 3 due to installation and operation of a new SO_2 monitoring network by January 2017 in the area meeting EPA's specifications referenced in EPA's SO_2 Data Requirements Rule (DRR),[6] and (2) those areas which EPA has not otherwise previously designated for the 2010 SO_2 NAAQS. After these Round 4 designations are completed, there will be no remaining undesignated areas for the 2010 SO_2 NAAQS.

On or about August 13, 2020, consistent with section 107(d)(1)(b)(ii) of the CAA, the EPA notified affected states either of our assessment of their recommended designations for Round 4 or of our intended designations for areas without recommendations. While we are in agreement with the recommendations for many areas, some may warrant further discussion. The EPA is available to assist and hopes to resolve any differences regarding the proper designation for these areas within the 120-day period provided by the CAA.

For any areas that we designate nonattainment in our final action, the CAA directs states to develop and submit to the EPA State Implementation Plans within 18 months of the effective date of the final designations, that meet the requirements of CAA sections 172(c) and 191–192 and provide for attainment of the NAAQS as expeditiously as practicable, but not later than 5 years from the effective date of the final designations.

II. Instructions for Submitting Public Comments and Internet Website for Rulemaking Information

A. Invitation To Comment

The purpose of this document is to solicit input from interested parties, other than the states to which we have sent notification letters, on the EPA's recent responses to the designation recommendations for the 2010 SO_2 NAAQS. These responses, and their

[2] A total of 29 areas throughout the U.S. were designated in this action published on August 5, 2013 (78 FR 47191). The EPA designated all 29 areas nonattainment based on violating monitored SO_2 concentrations from Federal Reference Method and Federal Equivalent Method monitors that are sited and operated in accordance with 40 CFR parts 50 and 58, and did not at that time designate any other areas.

[3] *Sierra Club* v. *McCarthy,* No. 3–13–cv–3953 (SI) (N.D. Cal. Mar. 2, 2015).

[4] A total of 65 areas throughout the U.S. were designated in these actions published on July 12, 2016 (81 FR 45039), and December 13, 2016 (81 FR 89870). Of these 65 areas, seven were designated nonattainment.

[5] Most remaining areas of the U.S. were designated in actions published on January 9, 2018 (83 FR 1098) and April 5, 2018 (83 FR 14597). Of these areas, six were designated nonattainment.

[6] *See* 80 FR 51052 (August 21, 2015), codified at 40 CFR part 51 subpart BB.

supporting technical analyses, can be found at *https://www.epa.gov/sulfur-dioxide-designations* and also in the public docket for these intended SO_2 designations at *https://www.regulations.gov* under Docket ID No. EPA–HQ–OAR–2020–0037.

CAA section 107(d) provides a process for air quality designations that involves recommendations by states, territories, and tribes to the EPA and responses from the EPA to those parties, prior to the EPA promulgating final area designations and boundaries. The EPA is not required under CAA section 107(d) to seek public comment during the designation process, but we are electing to do so for these areas with respect to the 2010 SO_2 NAAQS in order to gather additional information for the EPA to consider before making final designations for the specific areas addressed in the EPA's recent letters to states, territories, and tribes. The EPA invites public input on our responses to states regarding our intended designations for these areas during the 30-day comment period provided in this document. In order to receive full consideration, input from the public must be submitted to the docket by September 21, 2020. At this time, the EPA is not asking for public comments on areas beyond those areas that are the subject of this proposed action. This document and opportunity for public comment does not affect any rights or obligations of any state, territory, or tribe, or of the EPA, which might otherwise exist pursuant to the CAA section 107(d).

Please refer to the **FOR FURTHER INFORMATION CONTACT** section of this document for specific instructions on submitting comments and locating relevant public documents.

For some cases, the EPA has indicated to a state that further discussion is needed—*e.g.,* where a state's recommended nonattainment area boundary differs from the EPA's intended nonattainment area boundary, or areas where the state recommended a designation of attainment/unclassifiable (or unclassifiable) and available air quality monitoring or modeling data show that the area may be violating the 2010 SO_2 NAAQS or contain sources that may be contributing to air quality in a nearby area that may be violating the 2010 primary SO_2 NAAQS. In establishing nonattainment area boundaries for a particular area, the EPA is required to include within the boundaries both the area that does not meet the standard and any nearby area contributing to the area that does not meet the standard. We are particularly interested in receiving comments, supported by relevant information, if you believe that a specific geographic area for which further discussion is needed concerning a state's recommended designation of attainment/unclassifiable or unclassifiable (and for which available air quality data would require a modification of the recommended designation) should not be categorized by the CAA section 107(d) criteria as nonattainment, or if you believe that a specific nearby area for which the EPA does agree with a state's recommended designation of attainment/unclassifiable or unclassifiable should in fact be categorized as contributing to nonattainment using the CAA section 107(d) criteria. Please be as specific as possible in supporting your views.

- Describe any assumptions and provide any technical information and/or data that you used.
- Provide specific examples to illustrate your concerns and suggest alternatives.
- Explain your views as clearly as possible.
- Provide your input by the comment period deadline identified.

The EPA intends to complete designations for the areas subject to this round no later than December 31, 2020. Additional information on the EPA's intended approach for addressing designations for all areas can be found on the EPA's SO_2 implementation website at *https://www.epa.gov/so2-pollution/applying-or-implementing-sulfur-dioxide-standards.*

B. What should I consider as I prepare my comments for the EPA?

1. *Submitting CBI.* Do not submit confidential business information (CBI) to the EPA through *https://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI in a USB flash drive or CD ROM that you mail to the EPA, mark the outside of the USB flash drive or CD ROM as CBI and then identify electronically within the USB flash drive 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 Code of Federal Regulations (CFR) part 2.

Send information identified as CBI only to the following address: Tiffany Purifoy, OAQPS Document Control Officer, U.S. EPA, Office of Air Quality Planning and Standards, 109 T.W. Alexander Drive, Mail Code C404–02, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2020–0037. There will be a delay in confirming receipt of CBI packages, because the EPA–RTP office is closed to reduce the risk of transmitting COVID–19. Due to the office closure, EPA is also requesting that parties notify the OAQPS Document Control Officer via telephone, (919) 541–0878, or email at *purifoy.tiffany@epa.gov* when mailing information identified as CBI.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

C. Where can I find additional information for this rulemaking?

The EPA has also established a website for this rulemaking at *https://www.epa.gov/sulfur-dioxide-designations.* The website includes the state designation and boundary recommendations, the EPA's intended area designations, information supporting the EPA's preliminary designation decisions, as well as the rulemaking actions and other related information that the public may find useful.

III. What is the 2010 SO_2 NAAQS and what are the health concerns that it addresses?

The Administrator signed a final rule revising the primary SO_2 NAAQS on June 2, 2010. The rule was published in the **Federal Register** on June 22, 2010 (75 FR 35520) and became effective on August 23, 2010. Specifically, the EPA established a new 1-hour SO_2 standard at a level of 75 ppb, which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations of SO_2 is less than or equal to 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. 40 CFR 50.17(a) and (b). Current scientific evidence links short-term exposures to SO_2, ranging from 5 minutes to 24 hours, with an array of adverse respiratory effects including bronchoconstriction and increased asthma symptoms. Studies also show a connection between short-term exposure and increased visits to emergency departments and hospital admissions for respiratory illnesses,

particularly in at-risk populations including children, the elderly, and asthmatics.[7]

IV. What are the CAA requirements for air quality designations and what action has the EPA taken to meet these requirements?

After the EPA promulgates a new or revised NAAQS, the EPA is required to designate all areas of the country as either ''nonattainment,'' ''attainment,'' or ''unclassifiable,'' for that NAAQS pursuant to section 107(d)(1)–(2) of the CAA. As part of these Round 4 designations, the EPA is implementing its interpretation of statutory terms under CAA section 107(d) nationwide and is basing these designations on EPA's nationwide analytical approach and technical analysis, including evaluation of monitoring data and air quality modeling, applied to the available evidence for each area.

Regarding statutory definitions and the EPA's interpretations of such, section 107(d)(1)(A)(i) of the CAA defines a nonattainment area as an area that does not meet the NAAQS or that contributes to a nearby area that does not meet the NAAQS. An attainment area is defined by section 107(d)(1)(A)(ii) of the CAA as any area (other than an area that meets the definition of a nonattainment area) that meets the NAAQS. Unclassifiable areas are defined by section 107(d)(1)(A)(iii) of the CAA as those that cannot be classified on the basis of available information as meeting or not meeting the NAAQS.

In this action, the EPA defines a nonattainment area as an area that, based on available information including (but not limited to) monitoring data and/or appropriate modeling analyses, the EPA has determined either: (1) Does not meet the 2010 SO_2 NAAQS, or (2) contributes to ambient air quality in a nearby area that does not meet the NAAQS. An attainment/unclassifiable area is defined as an area that, based on available information including (but not limited to) appropriate monitoring data and/or modeling analyses, the EPA has determined meets the NAAQS and does not likely contribute to ambient air quality in a nearby area that does not meet the NAAQS. An unclassifiable area is defined as an area for which the available information does not allow the EPA to determine whether the area meets the definition of a nonattainment area or the definition of an attainment/unclassifiable area.

This nationwide analytical approach also includes but is not limited to: (1) The EPA's interpretations of other terms (*e.g.,* attainment/unclassifiable, nonattainment, unclassifiable, violating monitor, etc.) in the context of Round 4 of the 2010 SO_2 NAAQS; (2) the appropriate basis for characterizing the air quality of an area; (3) the five-factor analysis to determine the boundaries for each air quality area under the NAAQS (*see* Section V of this document); and (4) the methodology for appropriately characterizing SO_2 air quality through monitoring or modeling.

The EPA notes that CAA section 107(d) provides the agency with discretion to determine how best to interpret the terms in the definition of a nonattainment area (*e.g.,* ''contributes to'' and ''nearby'') for a new or revised NAAQS, given considerations such as the nature of a specific pollutant, the types of sources that may contribute to violations, the form of the standards for the pollutant, and other relevant information. In particular, the EPA's position is that the statute does not require the agency to establish bright line tests or thresholds for what constitutes ''contribution'' or ''nearby'' for purposes of designations.[8]

Similarly, the EPA's position is that the statute permits the EPA to evaluate the appropriate application of the term ''area'' to include geographic areas based upon full or partial county boundaries, as may be appropriate for a particular NAAQS. For example, CAA section 107(d)(1)(B)(ii) explicitly provides that the EPA can make modifications to designation recommendations for an area ''or portions thereof,'' and under CAA section 107(d)(1)(B)(iv) a designation remains in effect for an area ''or portion thereof'' until the EPA redesignates it.

By no later than 1 year after the promulgation of a new or revised NAAQS, CAA section 107(d)(1)(A) provides that each state governor is required to recommend air quality designations, including the appropriate boundaries for areas, to the EPA.[9] The EPA reviews those recommendations and is authorized to make any modifications the Administrator deems necessary. The statute does not define the term ''necessary,'' but the EPA interprets this to authorize the Administrator to modify designations that did not meet the statutory requirements or were otherwise inconsistent with the facts or analysis deemed appropriate by the Administrator. If the EPA is considering modifications to a recommendation, we are required by CAA section 107(d)(1)(B)(ii) to notify the state of any such intended modifications not less than 120 days prior to our promulgation of the final designation. These notifications are commonly known as the ''120-day letters.'' During this period, if the state or territory does not agree with the EPA's modification, it has an opportunity to respond to the EPA and to demonstrate why it believes the modification proposed by the EPA is inappropriate. If a state or territory fails to provide any recommendation for an area, in whole or in part, the EPA still must promulgate a designation that the Administrator deems appropriate, pursuant to CAA section 107(d)(1)(B)(ii). While CAA section 107(d) specifically addresses the designations process between the EPA and states and territories, the EPA intends to follow the same process to the extent practicable for tribes that submitted designation recommendations. The EPA is required by CAA section 107(d)(2)(A) to publish a notice in the **Federal Register** promulgating its final designations, and the EPA codifies its designations in the Code of Federal Regulations at 40 CFR part 81, subpart C.

V. What guidance has the EPA previously issued and how does the EPA now intend to apply the statutory requirements to determine area designations and boundaries?

In the notice of proposed rulemaking for the revised SO_2 NAAQS (74 FR 64810; December 8, 2009), the EPA issued proposed guidance on our approach to implementing the standard, including our approach to initial area designations. The EPA solicited comment on that guidance and, in the final rule (75 FR 35520; June 22, 2010), provided further guidance concerning implementation of the standard and how to identify nonattainment areas and boundaries for the SO_2 NAAQS. Subsequently, on March 24, 2011, the EPA provided additional designations guidance to assist states with making their recommendations for area designations and boundaries.[10] The EPA also issued two additional designations guidance documents on March 20, 2015,

[7] *See* 75 FR 35520 at 35525, June 22, 2010.

[8] This view was confirmed in *Catawba County* v. *EPA,* 571 F.3d 20 (D.C. Cir. 2009).

[9] Tribes are invited to submit recommendations following promulgation of a new or revised NAAQS but are not required to do so.

[10] *See* ''Area Designations for the 2010 Revised Primary Sulfur Dioxide National Ambient Air Quality Standards,'' memorandum to Regional Air Division Directors, Regions I–X, from Stephen D. Page, dated March 24, 2011, available at *https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2/20110324_page_so2_designations_guidance.pdf.*

and July 22, 2016, specific to Round 2 and Round 3 processes and schedules, respectively.[11]

An updated designations guidance document was issued by the EPA on September 5, 2019, to better reflect the Round 4 2010 SO_2 NAAQS designations process and to supplement, where necessary, prior designations guidance documents.[12] This memorandum identifies factors that the EPA intends to evaluate in determining whether areas are in violation of the 2010 SO_2 NAAQS. The document also contains the factors that the EPA intends to evaluate in determining the boundaries for all remaining undesignated areas in the country. These factors include: (1) Air quality characterization via ambient monitoring and/or dispersion modeling results; (2) emissions-related data; (3) meteorology; (4) geography and topography; and (5) jurisdictional boundaries.[13]

VI. What air quality information has the EPA used for these intended designations?

These intended designations are based on the EPA's application of the nationwide analytical approach to, and preliminary technical assessment of, the weight of evidence for each area, including but not limited to available air quality monitoring data and air quality modeling results. With respect to air quality monitoring data, the EPA has considered data from at least the most recent 3 full calendar years, *i.e.,* 2017–2019. The 1-hour primary SO_2 standard is violated at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentrations of SO_2 exceeds 75 ppb, as determined in accordance with Appendix T of 40 CFR part 50.

In the EPA's September 2019 memorandum, we noted that Round 4 area designations will be based primarily on ambient monitoring data, including data from existing and new EPA-approved monitors that have collected data at least from January 2017 forward, pursuant to the DRR. In addition, EPA may evaluate air dispersion modeling submitted by state air agencies for two specific circumstances. First, states may submit air dispersion modeling of actual or allowable emissions to support the geographic extent of a nonattainment boundary. Second, states may submit air dispersion modeling of allowable emissions to demonstrate that new permanent and federally enforceable SO_2 emissions limits that subject sources are meeting provide for attainment of the NAAQS and represent a more accurate characterization of current air quality at the time of designation than does monitoring data reflecting past air quality that does not account for compliance with new limits and associated enforceable emissions reductions.

VII. How do the Round 4 designations affect Indian country?

There are no violating monitors for areas of Indian county, so no areas of Indian country are being designated as nonattainment as part of this round. Any other parts of Indian country being designated as attainment/unclassifiable or unclassifiable are being designated along with the surrounding state area.

VIII. Where can I find information forming the basis for these intended designations and exchanges between the EPA and states related to these intended designations?

Information providing the basis for this intended action are provided in a technical support document (TSD)[14] included in the docket. The TSD, technical assistance documents, applicable EPA guidance memoranda, and copies of correspondence regarding this process between the EPA and the states, territories, tribes, and other parties, are available for review at the public docket for these SO_2 designations at *https://www.regulations.gov* under Docket ID No. EPA–HQ–OAR–2020–0037, at the EPA Docket Center listed in the **FOR FURTHER INFORMATION CONTACT** section of this document, and on the Agency's SO_2 Designations website at *https://www.epa.gov/sulfur-dioxide-designations.* Air dispersion modeling input and output files are too large to post in the docket or on the website and must be requested from the EPA Docket Office or the Regional office contacts listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

Dated: August 13, 2020.

Panagiotis Tsirigotis,

Director, Office of Air Quality Planning & Standards.

[FR Doc. 2020–18129 Filed 8–20–20; 8:45 am]

BILLING CODE 6560–50–P

[11] *See* ''Updated Guidance for Area Designations for the 2010 Primary Sulfur Dioxide National Ambient Air Quality Standard,'' memorandum to Regional Air Division Directors, Regions 1–10, from Stephen D. Page, dated March 20, 2015, available at *https://www.epa.gov/sites/production/files/2016-04/documents/20150320so2designations.pdf,* and ''Area Designations for the 2010 Primary Sulfur Dioxide National Ambient Air Quality Standard—Round 3,'' memorandum to Regional Air Division Directors, Regions 1–10, dated July 22, 2016, available at *https://www.epa.gov/sites/production/files/2016-07/documents/areadesign.pdf.*

[12] *See* ''Area Designations for the 2010 Primary Sulfur Dioxide National Ambient Air Quality Standard—Round 4,'' memorandum to Regional Air Division Directors, Regions 1–10, from Peter Tsirigotis, dated September 5, 2019, available at *https://www.epa.gov/sites/production/files/2019-09/documents/round_4_so2_designations_memo_09-05-2019_final.pdf.*

[13] The EPA supplemented this guidance with documents first made available to states and other interested parties in 2013 and updated in 2016. *See* SO_2 NAAQS Designations Source-Oriented Monitoring Technical Assistance Document (February 2016), available at *https://www.epa.gov/sites/production/files/2016-06/documents/so2monitoringtad.pdf,* and SO_2 NAAQS Designations Modeling Technical Assistance Document (August 2016), available at *https://www.epa.gov/sites/production/files/2016-06/documents/so2modelingtad.pdf.*

[14] The single TSD for this action consists of a few sections with information that applies to all affected areas or to certain groups of areas with some common features, and many sections that are specific to individual states. For convenience, the term ''TSD'' is also used generically to refer to these state-specific sections. For informational purposes, these individual state-specific TSDs are available for separate downloading from the indicated EPA website.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2020–0399; FRL–10013–98–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (CAA or the Act), notice is given of a proposed consent decree in *Center for Biological Diversity, et al.,* v. *Wheeler,* No. 3:20–cv–00448 (N.D. Cal.). On January 22, 2020 and February 19, 2020, the Center for Biological Diversity and the Center for Environmental Health (collectively, Plaintiffs) filed a complaint and a first amended complaint, respectively, in the United States District Court for the Northern District of California, alleging that the Administrator of the United States Environmental Protection Agency (EPA) failed to perform certain non-discretionary duties. First, Plaintiffs allege that EPA failed to issue a finding of failure to submit for state implementation plans (SIPs) addressing reasonably available control technology (RACT) for volatile organic compounds (VOC) from sources covered by the 2016 Oil and Gas control techniques guideline (CTG) for the 2008 ozone National Ambient Air Quality Standards (NAAQS) for states and areas listed in the First Amended Complaint within six months after the SIP due date. Second,

Plaintiffs allege that EPA failed to take final action to approve or disapprove, in whole or in part, Oil and Gas CTG SIPs for the 2008 and/or 2015 ozone NAAQS submitted by various states for the nonattainment areas and ozone transport region (OTR) states listed in the First Amended Complaint. The proposed consent decree would establish deadlines for EPA to take specified actions.

DATES: Written comments on the proposed consent decree must be received by September 21, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2020–0399, online at *https://www.regulations.gov* (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Additional Information about Commenting on the Proposed Consent Decree'' heading under the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov,* as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

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

FOR FURTHER INFORMATION CONTACT: Derek Mills, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone: (202) 564–3341; email address: *mills.derek@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Consent Decree

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2020–0399) contains a copy of the proposed consent decree.

The electronic version of the public docket for this action contains a copy of the proposed consent decree, and is available through *https://www.regulations.gov.* You may use *https://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

II. Additional Information About the Proposed Consent Decree

The proposed consent decree, which would fully resolve a lawsuit filed by the Center for Biological Diversity and the Center for Environmental Health, would require the EPA to take action under the CAA to make a finding of failure to submit for SIPs addressing RACT for VOC from sources covered by the 2016 Oil and Gas CTG pursuant to 42 U.S.C. 7410(k)(1)(B) for the 2008 ozone NAAQS for certain states and areas as listed in the proposed consent decree. The proposed consent decree would also require the Administrator, pursuant to CAA sections 110(k)(2)–(4), 42 U.S.C. 7410(k)(2)–(4), to take final action to approve or disapprove, in whole or in part SIP submissions addressing the 2016 Oil and Gas CTG for the 2008 and/or 2015 ozone NAAQS submitted by various states for the nonattainment areas and OTR states as listed in the proposed consent decree.

Under the terms of the proposed consent decree, EPA shall sign a notice or notices finding that the states identified as such in the consent decree have failed to submit a SIP or SIP revision addressing RACT for VOC sources covered by the Oil and Gas RACT CTG for the 2008 ozone NAAQS for the nonattainment area or state listed in the proposed consent decree by the established deadline. In addition, under the proposed consent decree, EPA shall sign a notice of proposed and/or final rulemaking to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part, Oil and Gas RACT CTG SIPs for the 2008 and/or 2015 ozone NAAQS for the nonattainment areas and OTR states as listed and identified as such in the proposed consent decree by the established deadlines.

For a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed consent decree. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

III. Additional Information About Commenting on the Proposed Consent Decree

Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2020–0399, via *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from this docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information

provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *https://www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

Gautam Srinivasan,

Associate General Counsel.

[FR Doc. 2020–18393 Filed 8–20–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[FRS 17000]

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

DATES: The agency must receive comments on or before October 20, 2020.

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, 202–418–2054.

SUPPLEMENTARY INFORMATION: The following applicants filed AM or FM proposals to change the community of license: GERARD MEDIA, LLC, WHFB(AM), Fac. ID No. 72174, From BENTON HARBOR-ST. JO, MI, File No. BP–20200715AAH; GEORGIA-CAROLINA RADIOCASTING COMPANY, LLC, WHTD(AM), Fac. ID No. 54562, From ELBERTON, GA, To COLBERT, GA, File No. BP–20200728AAE; KMSR, INC., KMSR(AM), Fac. ID No. 54336, From MAYVILLE, ND, To NORTHWOOD, ND, File No. BP–20200615AAN; LAKE HARTWELL RADIO, INC., WYPJ(FM), Fac. ID No. 166080, From DUE WEST, SC, To BOWMAN, GA, File No. 0000117873; RADIO TRAINING NETWORK, INC, WAHP(FM), Fac. ID No. 67212, From BELTON, SC, To DUE WEST, SC, File No. 0000117827; and MILESTONE RADIO II LLC, KBGY(FM), Fac. ID No. 84475, From FARIBAULT, MN, To ELKO NEW MARKET, MN, File No. 0000116370 . The full text of these applications is available electronically via the Media Bureau's Consolidated Data Base System, *https://licensing.fcc.gov/prod/cdbs/pubacc/prod/app_sear.htm* or Licensing and Management System (LMS), *https://apps2int.fcc.gov/dataentry/public/tv/publicAppSearch.html.*

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2020–18376 Filed 8–20–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0463; 3060–1124; FRS 17012]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before September 21, 2020.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number. As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how

it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–0463.

Title: Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program; Misuse of internet Protocol (IP) Captioned Telephone Service, CG Docket Nos. 03–123, 10–51, and 13–24.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Individuals or household; State, Local and Tribal Government.

Number of Respondents and Responses: 5,072 respondents; 7,989 responses.

Estimated Time per Response: 0.1 hours (6 minutes) to 80 hours.

Frequency of Response: Annually, semi-annually, monthly, on occasion, and one-time reporting requirements; Recordkeeping and Third-Party Disclosure requirements.

Obligation to Respond: Required to obtain or retain benefit. The statutory authority for the information collection requirements is found at section 225 of the Communications Act, 47 U.S.C. 225. The law was enacted on July 26, 1990, in Title IV of the Americans with Disabilities Act of 1990, Public Law 101–336, 104 Stat. 327, 366–69.

Total Annual Burden: 14,445 hours.

Total Annual Cost: $291,700.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's updated system of records notice (SORN), FCC/CGB–1, ''Informal Complaints, Inquiries, and Requests for Dispute Assistance.'' As required by the Privacy Act, 5 U.S.C. 552a, the Commission also published a SORN, FCC/CGB–1 ''Informal Complaints, Inquiries, and Requests for Dispute Assistance,'' in the **Federal Register** on August 15, 2014 (79 FR 48152) which became effective on September 24, 2014.

Privacy Impact Assessment: The FCC completed a Privacy Impact Assessment (PIA) on June 28, 2007. It may be reviewed at *https://www.fcc.gov/general/privacy-act-information#pia.* The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

Needs and Uses: On December 21, 2001, the Commission released the 2001 TRS Cost Recovery Order, document FCC 01–371, published at 67 FR 4203, January 29, 2002, in which the Commission, among other things:

(1) Required internet-based TRS providers to submit certain projected TRS-related cost and demand data to the TRS Fund administrator to be used to calculate the rate; and

(2) directed the TRS Fund administrator to expand its data collection forms accordingly.

In 2003, the Commission released the 2003 Second Improved TRS Order, published at 68 FR 50973, August 25, 2003, which among other things required that TRS providers offer certain local exchange carrier (LEC)-based improved services and features where technologically feasible, including a speed dialing requirement which may entail voluntary recordkeeping for TRS providers to maintain a list of telephone numbers. See also 47 CFR 64.604(a)(3)(vi)(B).

In 2007, the Commission released the Section 225/255 VoIP Report and Order, published at 72 FR 43546, August 6, 2007, extending the disability access requirements that apply to telecommunications service providers and equipment manufacturers under 47 U.S.C. 225, 255 to interconnected voice over internet protocol (VoIP) service providers and equipment manufacturers. As a result, under rules implementing section 225 of the Act, interconnected VoIP service providers are required to publicize information about telecommunications relay services (TRS) and 711 abbreviated dialing access to TRS. See also 47 CFR 64.604(c)(3). In 2007, the Commission also released the 2007 Cost Recovery Report and Order and Declaratory Ruling, published at 73 FR 3197, January 17, 2008, in which the Commission:

(1) Adopted a new cost recovery methodology for interstate traditional TRS and interstate STS based on the Multi-state Average Rate Structure (MARS) plan, under which interstate TRS compensation rates are determined by weighted average of the states' intrastate compensation rates, and which includes for STS additional compensation approved by the Commission for STS outreach;

(2) adopted a new cost recovery methodology for interstate captioned telephone service (CTS), as well as internet Protocol captioned telephone service (IP CTS), based on the MARS plan;

(3) adopted a cost recovery methodology for internet Protocol (IP) Relay based on a price cap like methodology;

(4) adopted a cost recovery methodology for VRS that adopted tiered rates based on call volume;

(5) clarified the nature and extent that certain categories of costs are compensable from the Fund; and

(6) addressed certain issues concerning the management and oversight of the Fund, including prohibiting financial incentives offered to consumers to make relay calls.

The 2007 TRS Cost Recovery Order requires that state relay administrators and TRS providers submit to the TRS Fund administrator the following information annually, for intrastate traditional TRS, STS, and CTS:

(1) The per-minute compensation rate(s) and other compensation received for the provision of TRS;

(2) whether the rate applies to session minutes or conversation minutes, which are a subset of session minutes;

(3) the number of intrastate session minutes; and

(4) the number of intrastate conversation minutes.

Also, STS providers must file a report annually with the TRS Fund administrator and the Commission on their specific outreach efforts directly attributable to the additional compensation approved by the Commission for STS outreach.

In 2011, to help prevent waste, fraud, and abuse, the Commission adopted three VRS orders to curtail these harmful practices. Each of these orders (collectively, the 2011 VRS Orders) included information collection requirements.

On April 6, 2011, in document FCC 11–54, the Commission released the 2011 Fraud Prevention Order, published at 76 FR 30841, May 27, 2011, which included several measures designed to eliminate the waste, fraud and abuse, while ensuring that VRS remains a viable and a valuable communication tool for Americans who use it on a daily basis.

On July 28, 2011, in document FCC 11–118 the Commission released the VRS Certification Order, published at 76 FR 47469, August 5, 2011, amending its rules for certifying internet-based TRS providers as eligible for payment from the Interstate TRS Fund (Fund) for their provision of internet-based TRS.

On October 17, 2011, in document FCC 11–155, the Commission released the Second VRS Certification Order, published at 76 FR 67070, October 31, 2011, addressing three petitions related to the VRS Certification Order by revising the burdens contained in the requirements for the submission of documentation of a provider's VRS equipment and technologies and the

submission of documentation regarding sponsorship arrangements.

The following are the final information collection requirements contained in the 2011 VRS Orders:

(1) The Chief Executive Officer (CEO), Chief Financial Officer (CFO), or other senior executive of a TRS provider shall certify, under penalty of perjury, that: (1) Minutes submitted to the Interstate TRS Fund (Fund) administrator for compensation were handled in compliance with the Commission's rules and are not the result of impermissible financial incentives to generate calls, and (2) cost and demand data submitted to the Fund administrator related to the determination of compensation rates are true and correct.

(2) VRS providers shall: (a) Submit to the Commission and the TRS Fund administrator a call center report twice a year and (b) notify the Commission and the TRS Fund administrator at least 30 days prior to any change to their call centers' locations.

(3) VRS providers shall submit detailed call data records (CDRs) and speed of answer compliance data to the Fund administrator.

(4) TRS providers shall use an automated record keeping system to capture the CDRs and shall submit such data electronically in standardized form to the TRS Fund administrator.

(5) internet-based TRS providers shall retain the CDRs that are used to support payment claims submitted to the Fund administrator for a minimum of five years, in an electronic format.

(6) VRS providers shall: (a) Maintain copies of all third-party contracts or agreements and make them available to the Commission and the TRS Fund administrator upon request; and (b) describe all agreements in connection with marketing and outreach activities in their annual submissions to the TRS Fund administrator.

(7) TRS providers shall provide information about their TRS whistleblower protections to all employees and contractors, in writing.

In 2018, the Commission released the IP CTS Modernization Order, published at 83 FR 30082, June 27, 2018, in which the Commission:

(1) Determined that it would transition the methodology for IP CTS cost recovery from the MARS plan to cost-based rates and adopted interim rates; and

(2) added two cost reporting requirements for IP CTS providers: (i) In annual cost data filings and supplementary information provided to the TRS Fund administrator, IP CTS providers that contract for the supply of services used in the provision of TRS, shall include information about payments under such contracts, classified according to the substantive cost categories specified by the TRS Fund administrator; and (ii) in the course of an audit or otherwise upon demand, IP CTS providers must make available any relevant documentation. 47 CFR 64.604(c)(5)(iii)(D)(1), (6).

OMB Control No.: 3060–1124.

Title: 80.231, Technical Requirements for Class B Automatic Identification System (AIS) Equipment.

Form No.: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 20 respondents; 50,020 responses.

Estimated Time per Response: 1 hour per requirement.

Frequency of Response: On occasion reporting requirement and third-party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154, 303, 307(e), 309 and 332 of the Communications Act of 1934, as amended.

Total Annual Burden: 50,020 hours.

Annual Cost Burden: $25,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On September 19, 2008, the Commission adopted a Second Report and Order, FCC 08–208, which added a new section 80.231, which requires that manufacturers of Class B Automatic Identification Systems (AIS) transmitters for the Marine Radio Service include with each transmitting device a statement explaining how to enter static information accurately and a warning statement that entering inaccurate information is prohibited. The Commission is seeking to extend this collection in order to obtain the full three-year clearance from OMB. Specifically, the information collection requires that manufacturers of AIS transmitters label each transmitting device with the following statement: WARNING: It is a violation of the rules of the Federal Communications Commission to input an MMSI that has not been properly assigned to the end user, or to otherwise input any inaccurate data in this device. Additionally, prior to submitting a certification application (FCC Form 731, OMB Control Number 3060–0057) for a Class B AIS device, the following information must be submitted in duplicate to the Commandant (CG–521), U.S. Coast Guard, 2100 2nd Street SW, Washington, DC 20593–0001: (1) The name of the manufacturer or grantee and the model number of the AIS device; and (2) copies of the test report and test data obtained from the test facility showing that the device complies with the environmental and operational requirements identified in IEC 62287–1. After reviewing the information described in the certification application, the U.S. Coast Guard will issue a letter stating whether the AIS device satisfies all of the requirements specified in IEC 62287–1. A certification application for an AIS device submitted to the Commission must contain a copy of the U.S. Coast Guard letter stating that the device satisfies all of the requirements specified in IEC–62287–1, a copy of the technical test data and the instruction manual(s).

These reporting and third-party disclosure requirements aid the Commission monitoring advance marine vessel tracking and navigation information transmitted from Class B AIS devices to ensure that they are accurate and reliable, while promoting marine safety.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–18315 Filed 8–20–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0346; FRS 17004]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility;

the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written comments should be submitted on or before October 20, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0346.

Title: Section 78.27, License Conditions.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; not-for-profit institutions.

Frequency of Response: Annual reporting requirement; on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 Section 154(i) of the Communications Act of 1934, as amended.

Number of Respondents and Responses: 4 respondents; 4 responses.

Estimated Time per Response: 10 mins. (0.166 hrs.).

Total Annual Burden: 1 hour.

Total Annual Cost: None.

Privacy Impact Assessment(s): No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality and respondents are not being asked to submit confidential information to the Commission.

Needs and Uses: The information collection requirements contained in 47 CFR 78.27(b)(1) require the licensee of a Cable Television Relay Service (CARS) station to notify the Commission in writing when the station commences operation. Such notification shall be submitted on or before the last day of the authorized one year construction period; otherwise, the station license shall be automatically forfeited. The information collection requirements contained in 47 CFR 78.27(b)(2) require CARS licensees needing additional time to complete construction of the station and commence operation shall request an extension of time 30 days before the expiration of the one year construction period. Exceptions to the 30-day advance filing requirement may be granted where unanticipated delays occur.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2020–18318 Filed 8–20–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0016; 3060–0027, 3060–0029, 3060–0031, 3060–0075, 3060–0110, 3060–0213, 3060–0214, 3060–0405, 3060–0920, 3060–0932, 3060–1133; FRS 17011]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before September 21, 2020.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to

comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control No.: 3060–0016.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule C (Former FCC Form 346); Sections 74.793(d) and 74.787, LPTV Out-of-Core Digital Displacement Application; Section 73.3700(g)(1)–(3), Post-Incentive Auction Licensing and Operations; Section 74.799, Low Power Television and TV Translator Channel Sharing.

Form No.: FCC Form 2100, Schedule C.

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

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 4,460 respondents and 4,460 responses.

Estimated Time per Response: 2.5–7 hours.

Frequency of Response: One-time reporting requirement; on occasion reporting requirement; third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 154(i), 303, 307, 308 and 309 of the Communications Act of 1934, as amended.

Total Annual Burden: 42,370 hours.

Annual Cost Burden: $23,026,757.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: FCC Form 2100, Schedule C is used by licensees/permittees/applicants when applying for authority to construct or make changes in a Low Power Television, TV Translator or DTV Transition.

On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing.

This submission is being made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order do not necessitate changes to the Form 2100, Schedule C, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

OMB Control Number: 3060–0075.

Title: Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment of License or Permit, for an FM or TV Translator Station, or a Low Power Television Station, FCC Form 345.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not for profit institutions; Local or Tribal Government.

Number of Respondents and Responses: 1,700 respondents; 3,900 responses.

Estimated Time per Response: 0.075–1.25 hours.

Frequency of Response: Third party disclosure requirement and on occasion reporting requirement.

Total Annual Burden: 3,013 hours.

Total Annual Cost: $3,943,979.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 310 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: Filing of the FCC Form 345 is required when applying for authority for assignment of license or permit, or for consent to transfer of control of a corporate licensee or permittee for an FM or TV translator station, or low power TV station.

This collection also includes the third-party disclosure requirement of 47 CFR Section 73.3580 (OMB approval was received for Section 73.3580 under OMB Control Number 3060–0031). Section 73.3580, as amended in the Commission's 2020 Public Notice Second Report and Order, discussed below, requires local public notice of the filing of all applications to assign or transfer control of a broadcast station authorization, including those of an FM or TV translator or booster station or LPTV station. Notice is given by an applicant posting notice of the application filing on its station website, its licensee website, its parent entity website, or on a publicly accessible, locally targeted website, for 30 consecutive days beginning within five business days of acceptance of the application for filing. The online notice must link to a copy of the application as filed in the Commission's LMS licensing database. Applicants for assignment or transfer of control of a low-power television (LPTV) station that locally originates programming must also make a total of six on-air announcements giving notice that their applications have been accepted for filing.

On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Applicants, including

applicants for assignment or transfer of control of authorizations for FM or TV translators or LPTV stations, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations that are required to make on-air announcements of the filing of certain applications, including an applicant for assignment or transfer of control of an LPTV station that locally originates programming, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing.

This submission is being made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order do not necessitate changes to the Form 345, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

OMB Control No.: 3060–0027.

Title: Application for Construction Permit for Commercial Broadcast Station, FCC Form 301; Form 2100, Schedule A—Application for Media Bureau Video Service Authorization; 47 Sections 73.3700(b)(1) and (b)(2) and Section 73.3800, Post Auction Licensing; Form 2100, Schedule 301–FM—Commercial FM Station Construction Permit Application.

Form No.: FCC Form 2100, Schedule A, FCC Form 301, FCC Form 2100, Schedule 301–FM.

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

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 3,092 respondents and 4,199 responses.

Estimated Time per Response: 0.075 hours-6.25 hours.

Frequency of Response: One-time reporting requirement; On occasion reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 12,435 hours.

Annual Cost Burden: $62,308,388.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations that are required to make on-air announcements of the filing of certain applications, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing.

This submission is being made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 and 47 CFR 73.3594 adopted in the 2020 Public Notice Second Report and Order, do not necessitate changes to the Schedule 301, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application. 47 CFR 73.3571(j)(3) and 73.3573(g)(3)require that applicants must comply with the local public notice provisions of § 73.3580(c)(5).

OMB Control Number: 3060–0029.

Title: FCC Form 2100, Schedule 340, Noncommercial Educational Station for Reserved Channel Construction Permit Application.

Form Number: FCC Form 2100, Schedule 340.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, not for profit institutions and State, local or Tribal Government.

Number of Respondents and Responses: 2,820 respondents; 2,820 responses.

Estimated Time per Response: 0.5 hours–6 hours.

Frequency of Response: On occasion reporting requirement and Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 6,603 hours.

Total Annual Cost: $30,039,119.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: This submission is being made to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations, Report and Order, FCC 19–127, 34 FCC Rcd 12519 (2019) (NCE LPFM Report and Order), adopted December 10, 2019, and released on December 11, 2019, where the Commission revised its rules and procedures for considering competing applications for new and major modifications to noncommercial educational full-service FM and full-power television (NCE), and low power FM (LPFM) broadcast stations. The changes are designed to improve the comparative selection and licensing procedures, expedite the initiation of new service to the public, eliminate unnecessary applicant burdens, and

reduce the number of appeals of NCE comparative licensing decisions.

First, to improve the NCE comparative process, the NCE LPFM Report and Order: (1) Eliminates the governing document requirements for established local applicants and applicants claiming diversity points; (2) establishes a uniform divestiture pledge policy; (3) expands the tie-breaker criteria and revises the procedures for allocating time in mandatory time-sharing situations; and (4) clarifies and modifies the ''holding period'' rule.

Second, the NCE LPFM Report and Order adopts the following changes to the LPFM comparative process: (1) Prohibits amendments that attempt to cure past unauthorized station violations; (2) authorizes time-sharing discussions prior to tentative selectee designations; and (3) establishes procedures for remaining tentative selectees following dismissal of point aggregation time-share agreements.

Third, the NCE LPFM Report and Order adopts the following general changes: (1) Defines which applicant board changes are major changes; (2) clarifies the reasonable site assurance requirements; (3) streamlines construction deadline tolling procedures and notification requirements; (4) lengthens the LPFM construction period; and (5) eliminates restrictions on the assignment and transfer of LPFM authorizations.

Specifically, pertaining to this Information Collection and NCE stations, the Commission is revising the relevant rules, 47 CFR 73.7002, 73.7003, and 73.7005, the form, and corresponding instructions, as follows:

(1) Changing all former references to ''holding period'' to ''maintenance of comparative qualifications.'' During the four-year ''maintenance of comparative qualifications'' period, an NCE station receiving a decisive preference for fair distribution of service, in accordance with the provisions of 47 CFR 73.7002, must certify that any technical modification to its authorized facilities satisfies the technical requirements of 47 CFR 73.7005(b).

(2) Adding an ''Established Local Applicant Pledge,'' requiring an applicant to pledge to maintain localism characteristics during the four-year maintenance of comparative qualifications period, if the applicant certifies that it qualifies for points as an ''established local applicant'' in the Point System Factors of 47 CFR 73.7003.

(3) Adding a ''Diversity Pledge,'' requiring an applicant to pledge to comply with all of the restrictions on station modifications and acquisitions (as defined in 47 CFR 73.7005) during the four-year maintenance of comparative qualifications period, if the applicant certifies that it qualifies for ''local diversity of ownership'' points in the Point System Factors of 47 CFR 73.7003.

(4) Modifying the divestiture sub-question certification, to reflect the new divestiture policies, in the Diversity of Ownership question in the Point System Factors Section.

(5) Adding a new question in the Tie Breakers section of the form, reflecting the new third tie-breaker criterion of 47 CFR 73.7003(c)(3).

(6) Adding a new question in the Tie Breakers Section of the form, requiring the applicant to provide its initial date of establishment.

(7) Adding a Reasonable Site Assurance Certification in the Technical Certifications Section of the form, requiring the applicant to certify that it has obtained reasonable assurance from the tower owner or authorized representative, that its specified site will be available.

The revisions to the relevant rules, and the changes to the questions in Schedule 340 listed above affect the substance, burden hours, and costs of completing the Schedule 340. Therefore, this submission is being made to OMB for approval of revised Information Collection requirements.

On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations that are required to make on-air announcements of the filing of certain applications, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing.

This submission is being made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order, do not necessitate changes to the Schedule 340, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

Control Number: 3060–0031.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License, FCC Form 314; Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License, FCC Form 315; Section 73.3580, Local Public Notice of Filing of Broadcast Applications.

Form Number: FCC Forms 314 and 315.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 4,920 respondents and 13,160 responses.

Estimated Time per Response: 0.075 to 7 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 154(i), 303(b) and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 17,159 hours.

Total Annual Cost: $51,493,759.

Privacy Impact Assessment(s): No impacts.

Nature and Extent of Confidentiality: There is no need for confidentiality and respondents are not being asked to submit confidential information to the Commission.

Needs and Uses: This submission is being made to the Office of Management (OMB) for the approval of information collection requirements contained in the

Commission's Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations, Report and Order, FCC 19–127, 34 FCC Rcd 12519 (2019) (NCE LPFM Report and Order), adopted December 10, 2019, and released on December 11, 2019, where the Commission revised its rules and procedures for considering competing applications for new and major modifications to noncommercial educational full-service FM and full-power television (NCE), and low power FM (LPFM) broadcast stations. The changes are designed to improve the comparative selection and licensing procedures, expedite the initiation of new service to the public, eliminate unnecessary applicant burdens, and reduce the number of appeals of NCE comparative licensing decisions.

First, to improve the NCE comparative process, the NCE LPFM Report and Order: (1) Eliminates the governing document requirements for established local applicants and applicants claiming diversity points; (2) establishes a uniform divestiture pledge policy; (3) expands the tie-breaker criteria and revises the procedures for allocating time in mandatory time-sharing situations; and (4) clarifies and modifies the ''holding period'' rule.

Second, the NCE LPFM Report and Order adopts the following changes to the LPFM comparative process: (1) Prohibits amendments that attempt to cure past unauthorized station violations; (2) authorizes time-sharing discussions prior to tentative selectee designations; and (3) establishes procedures for remaining tentative selectees following dismissal of point aggregation time-share agreements.

Third, the NCE LPFM Report and Order adopts the following general changes: (1) Defines which applicant board changes are major changes; (2) clarifies the reasonable site assurance requirements; (3) streamlines construction deadline tolling procedures and notification requirements; (4) lengthens the LPFM construction period; and (5) eliminates restrictions on the assignment and transfer of LPFM authorizations.

Specifically, pertaining to this Information Collection and NCE and LPFM stations, the Commission is removing the restrictive LPFM station three-year ''holding period'' certification from CDBS Forms 314 and 315, and revising the relevant rules, 47 CFR 73.865 and 73.7005, the forms, and corresponding instructions, as follows:

(1) Changing all references to ''holding period'' to ''maintenance of comparative qualifications,'' and requiring NCE stations awarded by the point system to certify satisfying the four-year ''maintenance of comparative qualifications'' period;

(2) requiring LPFM applicants to certify that it has been at least 18 months since the station's initial construction permit was granted in accordance with 47 CFR 73.865(c);

(3) requiring LPFM applicants to certify that the assignment/transfer of the LPFM authorization satisfies the consideration restrictions of 47 CFR 73.865(a)(1);

(4) requiring LPFM authorizations awarded by the LPFM comparative point system, to indicate whether the LPFM station has operated on-air for at least four years since grant;

(5) requiring NCE applicants to certify that the proposed acquisition comports with 47 CFR 73.7005(c) diversity requirements, based on any ''diversity of ownership'' points awarded in an NCE points system analysis.

Moreover, the NCE LPFM Report and Order will increase the number of applicants eligible to file FCC Forms 314 and 315 by eliminating both the absolute prohibition on the assignment/transfer of LPFM construction permits and the three-year holding period restriction on assigning LPFM licenses. The elimination of these restrictions will benefit the LPFM service by increasing the likelihood that LPFM permits will be constructed, provide new service to communities, and help make the LPFM stations more viable.

On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including commercial stations filing assignment and transfer applications, that were previously required to post public notice in a local newspaper, must now post notice online either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations, including those filing assignment and transfer applications, that are required to make on-air announcements of the filing of certain applications, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing.

This submission is being made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order, do not necessitate changes to the Forms 314 or 315, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

OMB Control Number: 3060–0110.

Title: FCC Form 2100, Application for Renewal of Broadcast Station License, LMS Schedule 303–S.

Form Number: FCC 2100, LMS Schedule 303–S.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, Local or Tribal Governments.

Number of Respondent and Responses: 5,126 respondents, 5,126 responses.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended, and Section 204 of the Telecommunications Act of 1996.

Estimated Time per Response: 0.5 hours-12 hours.

Frequency of Response: Every eight-year reporting requirement; Third party disclosure requirement.

Total Annual Burden: 14,868 hours.

Total Annual Costs: $3,994,164.

Obligation of Response: Required to obtain or retain benefits. The statutory authority for the collection is contained Sections 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended, and Section 204 of the Telecommunications Act of 1996.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Some stations that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations that are required to make on-air announcements of the filing of certain applications, including applications for the renewal of broadcast licenses, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing. The Commission also clarified low-power FM (LPFM) stations' obligations to provide local public notice, and amended section 73.801 of the rules (47 CFR 73.801, listing FCC rules that apply to the LPFM service) to include the local public notice rule, 47 CFR 73.3580.

This submission is being made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order, do not necessitate changes to Schedule 303–S, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

OMB Control Number: 3060–0213.

Title: Section 73.3525, Agreements for Removing Application Conflicts.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not for profit institutions.

Number of Respondents and Responses: 38 respondents; 38 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Total Annual Burden: 38 hours.

Total Annual Cost: $91,200.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 311 of the Communications Act of 1934, as amended.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission is submitting this revision to the Office of Management and Budget for approval to remove the information collection requirements, annual burden hours and annual cost contained in this collection for 47 CFR 73.3535(b). The Commission removed this rule section when it adopted the Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications, MB Docket No. 17–264, FCC 20–65 on May 12, 2020.

The following information collection requirements remain in this collection: 47 CFR Section 73.3525 states (a) except as provided in § 73.3523 regarding dismissal of applications in comparative renewal proceedings, whenever applicants for a construction permit for a broadcast station enter into an agreement to procure the removal of a conflict between applications pending before the FCC by withdrawal or amendment of an application or by its dismissal pursuant to § 73.3568, all parties thereto shall, within 5 days after entering into the agreement, file with the FCC a joint request for approval of such agreement. The joint request shall be accompanied by a copy of the agreement, including any ancillary agreements, and an affidavit of each party to the agreement setting forth:

(1) The reasons why it is considered that such agreement is in the public interest;

(2) A statement that its application was not filed for the purpose of reaching or carrying out such agreement;

(3) A certification that neither the applicant nor its principals has received any money or other consideration in excess of the legitimate and prudent expenses of the applicant; Provided That this provision shall not apply to bona fide merger agreements;

(4) The exact nature and amount of any consideration paid or promised;

(5) An itemized accounting of the expenses for which it seeks reimbursement; and

(6) The terms of any oral agreement relating to the dismissal or withdrawal of its application.

OMB Control Number: 3060–0214.

Title: Sections 73.3526 and 73.3527, Local Public Inspection Files; Sections 73.1212, 76.1701 and 73.1943, Political Files.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit entities; Not for profit institutions; State, Local or Tribal government; Individuals or households.

Number of Respondents and Responses: 23,984 respondents; 62,839 responses.

Estimated Time per Response: 1–52 hours.

Frequency of Response: On occasion reporting requirement, Recordkeeping requirement, Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections is contained in Sections 151, 152, 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 2,043,805 hours.

Total Annual Cost: None.

Privacy Impact Assessment: The Commission prepared a system of records notice (SORN), FCC/MB–2, ''Broadcast Station Public Inspection Files,'' that covers the PII contained in the broadcast station public inspection files located on the Commission's website. The Commission will revise appropriate privacy requirements as necessary to include any entities and information added to the online public file in this proceeding.

Nature and Extent of Confidentiality: Most of the documents comprising the public file consist of materials that are not of a confidential nature. Respondents complying with the information collection requirements may request that the information they submit be withheld from disclosure. If confidentiality is requested, such requests will be processed in accordance with the Commission's rules, 47 CFR 0.459.

In addition, the Commission has adopted provisions that permit respondents subject to the information collection requirement for Shared

Service Agreements to redact confidential or proprietary information from their disclosures.

Needs and Uses: On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations that are required to make on-air announcements of the filing of certain applications, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing.

This submission is being made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The modified information collection requirements, revising rules 47 CFR 73.3526(e)(13) and 47 CFR 73.3527(e)(10) covering local public notice announcements, are as follows:

47 CFR 73.3526(e)(13)—Local public notice announcements. Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required pursuant to § 73.3580(c)(3), place in the station's online public inspection file a statement certifying compliance with this requirement. The dates and times that the on-air announcements were broadcast shall be made part of the certifying statement. The certifying statement shall be retained in the public file for the period specified in § 73.3580(e)(2) (for as long as the application to which it refers).

47 CFR 73.3527(e)(10)—Local public notice announcements. Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required pursuant to § 73.3580(c)(3), place in the station's online public inspection file a statement certifying compliance with this requirement. The dates and times that the on-air announcements were broadcast shall be made part of the certifying statement. The certifying statement shall be retained in the public file for the period specified in § 73.3580(e)(2) (for as long as the application to which it refers).

OMB Control Number: 3060–0405.

Title: Form 2100, Schedule 349—FM Translator or FM Booster Station Construction Permit Application.

Form Number: FCC Form 2100, Schedule 349.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; State, Local or Tribal Government; Not-for-profit institutions.

Number of Respondents and Responses: 1,250 respondents; 3,750 responses.

Estimated Time per Response: 0.5 hours–1.5 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 4,050 hours.

Total Annual Cost: $4,447,539.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Needs and Uses: On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing.

This submission is being made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order, do not necessitate changes to the Schedule 349, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

In April 2020, the Commission adopted a Report and Order making certain changes to the LPFM technical rules, to improve reception and increase flexibility while maintaining interference protection and the core LPFM goals of diversity and localism. Amendments of Parts 73 and 74 to Improve the Low Power FM Radio Service Technical Rules; Modernization of Media Regulation Initiative, Report and Order, MB Docket Nos. 19–193, 17–105, FCC 20–53 (rel. Apr. 23, 2020) (2020 Technical Report and Order).

LPFM stations provide a secondary, noncommercial radio service with a community focus. The Commission originally designed LPFM engineering requirements to be simple so that non-profit organizations with limited engineering expertise and small budgets could readily apply for, construct, and operate community-oriented stations serving highly localized areas. LPFM organizations suggested that the service has matured and requires additional engineering options to improve reception. Thus, the 2020 Technical Report and Order adopted the following rules: Allow expanded LPFM use of directional antennas. All LPFM stations may use directional facilities, with either off-the-shelf or composite antennas, upon a satisfactory engineering showing. Such antennas could improve service near international borders by allowing LPFM stations to serve more listeners in the United States while continuing to protect Mexican and Canadian stations.

Redefine ''Minor Changes'' for LPFM stations. An LPFM station may apply for approval to relocate its transmitter site without awaiting a filing window if the change is ''minor,'' redefined in the

2020 Technical Report and Order as a move of 11.2 kilometers or less. The 2020 Technical Report and Order also allowed proposals of greater distances to qualify as minor if the existing and proposed service contours overlap.

Permit LPFM Use of FM Booster Stations. FM booster stations amplify and retransmit a station's signal. The 2020 Technical Report and Order amended rules that had prohibited LPFM stations from operating booster stations, allowing LPFM stations to operate an FM booster in lieu of an FM translator when a booster would better address unique terrain challenges.

Allow Shared Emergency Alert System (EAS) Equipment. Co-owned, co-located radio stations can share EAS equipment, but this option was not available to LPFM stations because they cannot be co-owned. The 2020 Technical Report and Order permitted co-located LPFM stations (particularly those in time-share arrangements) to share an EAS decoder pursuant to an agreement for common access as well as common responsibility for any EAS rule violations, thus potentially reducing costs.

Facilitate Waivers of Requirement to Protect Television Stations Operating on Channel 6. Stations on the part of the FM band reserved for NCE use must currently protect adjacent television stations on Channel 6 (TV6). The 2020 Technical Report and Order deferred to a future proceeding consideration of a proposal to eliminate the protection of digital television stations operating on TV6. The 2020 Technical Report and Order stated that until such a proceeding is resolved, the Commission will accept FM proposals that are short-spaced to TV6 if the FM applicant demonstrates no interference. Alternatively, the 2020 Technical Report and Order added language to the rules allowing reserved band radio stations to provide an agreement indicating the concurrence of all potentially affected digital TV6 stations.

Miscellaneous Changes. The 2020 Technical Report and Order added language to 47 CFR 73.850 requiring LPFM stations to notify the Commission if they are silent for ten days and to seek authority for silent periods over 30 days, as required for all other broadcasters, thus codifying a longstanding policy that the Bureau already applies to the LPFM service that allows it to identify and assist LPFM stations at risk of losing their licenses automatically under section 312(g) of the Communications Act.

Specifically, pertaining to this Information Collection and FM Booster (and LPFM) stations, the Commission is revising the form, the corresponding instructions, and the information collection as follows:

(1) Permitting LPFM licensees to own and operate FM Booster stations. The 2020 Technical Report and Order will increase the number of applicants eligible to file LMS Schedule 349 by eliminating the absolute prohibition on the cross-ownership of FM Booster stations by LPFM licenses. The overall number of respondents may increase because these rule changes expand the universe of applicants eligible to apply for an FM Booster station construction permit. Therefore, this submission is being made to OMB for approval of revised Information Collection requirements.

OMB Control Number: 3060–0920.

Title: Form 2100, Schedule 318—Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99–25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii).

Form No.: Form 2100, Schedule 318.

Type of Review: Revision of a currently approved collection.

Respondents: Not-for-profit institutions; State, local or Tribal governments.

Number of Respondents and Responses: 24,606 respondents with multiple responses; 31,324 responses.

Estimated Time per Response: .0025–12 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Monthly reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in sections 154(i), 303, 308 and 325(a) of the Communications Act of 1934, as amended.

Total Annual Burden: 52,889 hours.

Total Annual Costs: $1,229,370.

Privacy Act Impact Assessment: This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Needs and Uses: This submission is being made to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations, Report and Order, FCC 19–127, 34 FCC Rcd 12519 (2019) (NCE LPFM Report and Order), adopted December 10, 2019, and released on December 11, 2019, where the Commission revised its rules and procedures for considering competing applications for new and major modifications to noncommercial educational full-service FM and full-power television (NCE), and low power FM (LPFM) broadcast stations. The changes are designed to improve the comparative selection and licensing procedures, expedite the initiation of new service to the public, eliminate unnecessary applicant burdens, and reduce the number of appeals of NCE comparative licensing decisions.

First, to improve the NCE comparative process, the NCE LPFM Report and Order: (1) Eliminates the governing document requirements for established local applicants and applicants claiming diversity points; (2) establishes a uniform divestiture pledge policy; (3) expands the tie-breaker criteria and revises the procedures for allocating time in mandatory time-sharing situations; and (4) clarifies and modifies the ''holding period'' rule.

Second, the NCE LPFM Report and Order adopts the following changes to the LPFM comparative process: (1) Prohibits amendments that attempt to cure past unauthorized station violations; (2) authorizes time-sharing discussions prior to tentative selectee designations; and (3) establishes procedures for remaining tentative selectees following dismissal of point aggregation time-share agreements.

Third, the NCE LPFM Report and Order adopts the following general changes: (1) Defines which applicant board changes are major changes; (2) clarifies the reasonable site assurance requirements; (3) streamlines construction deadline tolling procedures and notification requirements; (4) lengthens the LPFM construction period; and (5) eliminates restrictions on the assignment and transfer of LPFM authorizations.

Specifically, pertaining to this Information Collection and LPFM stations, the Commission is revising the relevant rules, 47 CFR Section 73.872, the form, and corresponding instructions, as follows:

(1) Adding a Reasonable Site Assurance Certification in the Technical Certifications Section of the form, requiring the applicant to certify that it has obtained reasonable assurance from the tower owner or authorized representative, that its specified site will

be available. The revisions to the relevant rules, and the changes to the questions in Schedule 318 listed above affect the substance, burden hours, and costs of completing the Schedule 318. Therefore, this submission is being made to OMB for approval of revised Information Collection requirements. On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations that are required to make on-air announcements of the filing of certain applications, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing. The Commission also clarified LPFM stations' obligations to provide local public notice, and amended section 73.801 of the rules (47 CFR 73.801, listing FCC rules that apply to the LPFM service) to include the local public notice rule, 47 CFR 73.3580.

This submission is being made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order, do not necessitate changes to the Schedule 318, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

In April 2020, the Commission adopted a Report and Order making certain changes to the LPFM technical rules, to improve reception and increase flexibility while maintaining interference protection and the core LPFM goals of diversity and localism. Amendments of Parts 73 and 74 to Improve the Low Power FM Radio Service Technical Rules; Modernization of Media Regulation Initiative, Report and Order, MB Docket Nos. 19–193, 17–105, FCC 20–53 (rel. Apr. 23, 2020)(2020 Technical Report and Order).

LPFM stations provide a secondary, noncommercial radio service with a community focus. The Commission originally designed LPFM engineering requirements to be simple so that non-profit organizations with limited engineering expertise and small budgets could readily apply for, construct, and operate community-oriented stations serving highly localized areas. LPFM organizations suggested that the service has matured and requires additional engineering options to improve reception. Thus, the 2020 Technical Report and Order adopted the following rules: Allow expanded LPFM use of directional antennas. All LPFM stations may use directional facilities, with either off-the-shelf or composite antennas, upon a satisfactory engineering showing. Such antennas could improve service near international borders by allowing LPFM stations to serve more listeners in the United States while continuing to protect Mexican and Canadian stations.

Redefine ''Minor Changes'' for LPFM stations. An LPFM station may apply for approval to relocate its transmitter site without awaiting a filing window if the change is ''minor,'' redefined in the 2020 Technical Report and Order as a move of 11.2 kilometers or less. The 2020 Technical Report and Order also allowed proposals of greater distances to qualify as minor if the existing and proposed service contours overlap.

Permit LPFM Use of FM Booster Stations. FM booster stations amplify and retransmit a station's signal. The 2020 Technical Report and Order amended rules that had prohibited LPFM stations from operating booster stations, allowing LPFM stations to operate an FM booster in lieu of an FM translator when a booster would better address unique terrain challenges.

Allow Shared Emergency Alert System (EAS) Equipment. Co-owned, co-located radio stations can share EAS equipment, but this option was not available to LPFM stations because they cannot be co-owned. The 2020 Technical Report and Order permitted co-located LPFM stations (particularly those in time-share arrangements) to share an EAS decoder pursuant to an agreement for common access as well as common responsibility for any EAS rule violations, thus potentially reducing costs.

Facilitate Waivers of Requirement to Protect Television Stations Operating on Channel 6. Stations on the part of the FM band reserved for NCE use must currently protect adjacent television stations on Channel 6 (TV6). The 2020 Technical Report and Order deferred to a future proceeding consideration of a proposal to eliminate the protection of digital television stations operating on TV6. The 2020 Technical Report and Order stated that until such a proceeding is resolved, the Commission will accept FM proposals that are short-spaced to TV6 if the FM applicant demonstrates no interference. Alternatively, the 2020 Technical Report and Order added language to the rules allowing reserved band radio stations to provide an agreement indicating the concurrence of all potentially affected digital TV6 stations.

Miscellaneous Changes. The 2020 Technical Report and Order added language to 47 CFR 73.850 requiring LPFM stations to notify the Commission if they are silent for ten days and to seek authority for silent periods over 30 days, as required for all other broadcasters, thus codifying a longstanding policy that the Bureau already applies to the LPFM service that allows it to identify and assist LPFM stations at risk of losing their licenses automatically under section 312(g) of the Communications Act. The 2020 Technical Report and Order also made several non-substantive changes to remove duplicative and out-of-date information.

Specifically, pertaining to this Information Collection and LPFM stations, the Commission is revising the relevant rules, 47 CFR 73.816, 73.850, and 73.870, the form, and corresponding instructions, as follows:

(1) Adding an Antenna Type question in the Technical Certifications Section of the form, requiring the applicant to describe the proposed antenna type (directional or non-directional). Applicants proposing a directional antenna (as now permitted by section 73.816) must complete a data table, providing relative field values for every 10 degrees on the unit circle.

(2) Modifying section 73.850 to clarify that LPFM stations must, like other broadcast stations, notify the

Commission if they temporarily stop broadcasting. The rules require radio stations to notify the Commission within 10 days of temporarily discontinuing operations and to obtain Commission authorization if the discontinued operations last beyond 30 days.

(3) Redefining the types of LPFM facility changes that qualify as ''minor'' (in section 73.870), to provide additional flexibility for LPFM stations to relocate their facilities.

The revisions to the relevant rules, and the changes to the questions in Schedule 318 listed above affect the substance, burden hours, and costs of completing the Schedule 318. Therefore, this submission is being made to OMB for approval of revised Information Collection requirements.

OMB Control No.: 3060–0932.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule E (Former FCC Form 301–CA); 47 CFR Sections 73.3700(b)(1)(i)–(v) and (vii), (b)(2)(i) and (ii); 47 CFR Section 73.6028; 47 CFR Section 74.793(d).

Form No.: FCC Form 2100, Schedule E (Application for Media Bureau Audio and Video Service Authorization) (Former FCC Form 301–CA).

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

Respondents: Business or other for-profit entities; Not for profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 745 respondents and 745 responses.

Estimated Time per Response: 2.25 hours–6 hours.

Frequency of Response: One-time reporting requirement; On occasion reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 157 and 309(j) as amended; Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act) and the Community Broadcasters Protection Act of 1999.

Total Annual Burden: 6,146 hours.

Annual Cost Burden: $4,334,902.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: FCC Form 2100, Schedule E (formerly FCC Form 301–CA) is to be used in all cases by a Class A television station licensee seeking to make changes in the authorized facilities of such station. FCC Form 2100, Schedule E requires applicants to certify compliance with certain statutory and regulatory requirements. Detailed instructions on the FCC Form 2100, Schedule E provide additional information regarding Commission rules and policies. FCC Form 2100, Schedule E is presented primarily in a ''Yes/No'' certification format. However, it contains appropriate places for submitting explanations and exhibits where necessary or appropriate. Each certification constitutes a material representation. Applicants may only mark the ''Yes'' certification when they are certain that the response is correct. A ''No'' response is required if the applicant is requesting a waiver of a pertinent rule and/or policy, or where the applicant is uncertain that the application fully satisfies the pertinent rule and/or policy. FCC Form 2100, Schedule E filings made to implement post-auction channel changes will be considered minor change applications.

Class A applications for a major change are subject to third party disclosure requirement of Section 73.3580, which requires local public notice that the application has been accepted for filing. Notice is given by an applicant posting notice of the application filing on its station website, its licensee website, its parent entity website, or on a publicly accessible, locally targeted website, for 30 consecutive days beginning within five business days of acceptance of the application for filing. The online notice must link to a copy of the application as filed in the Commission's LMS licensing database.

On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including Class A television stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing.

This submission is being made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order do not necessitate changes to the Form 2100, Schedule E, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

OMB Control Number: 3060–1133.

Title: Application for Permit to Deliver Programs to Foreign Broadcast Stations (FCC Form 308); 47 CFR Section 73.3545 and 73.3580.

Form No.: FCC Form 308.

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

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 26 respondents; 48 responses.

Estimated Time per Response: 0.5 hours–2 hours.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 325(c) of the Communications Act of 1934, as amended.

Total Annual Burden: 40 hours.

Annual Cost Burden: $18,642.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information.

Needs and Uses: On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing FCC Form 308, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for

30 continuous days following acceptance of the application for filing.

This submission is being made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order do not necessitate changes to FCC Form 308, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–18319 Filed 8–20–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Reporting Requirements Associated with Regulation XX (FR XX; OMB No. 7100–0363) and the Financial Company (as defined) Report of Consolidated Liabilities (FR XX–1; OMB No. 7100–0363).

DATES: Comments must be submitted on or before October 20, 2020.

ADDRESSES: You may submit comments, identified by FR XX or FR XX–1, by any of the following methods:

- *Agency website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Report title: Reporting Requirements Associated With Regulation XX; Financial Company (As Defined) Report of Consolidated Liabilities.

Agency form number: FR XX; FR XX–1.

OMB control number: 7100–0363.

Frequency: Event-generated; annual.

Respondents: Insured depository institutions, bank holding companies, savings and loan holding companies, any other companies that control insured depository institutions, nonbank financial companies designated by the Financial Stability Oversight Council (Council) for supervision by the Board, or foreign banks or companies that are treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (BHC Act); Certain financial companies that do not otherwise report consolidated financial information to the Board or another Federal banking agency.

Estimated number of respondents: FR XX (Section 251.3(e))–1; FR XX (Sections 251.4(b) and (c))–1; FR XX–1–37.

Estimated average hours per response: FR XX (Section 251.3(e))–6; FR XX (Sections 251.4(b) and (c))–20; FR XX–1–2.

Estimated annual burden hours: FR XX (Section 251.3(e))–6; FR XX

(Sections 251.4(b) and (c))–20; FR XX–1–74.

General description of report: The Board's Regulation XX—Concentration Limit (12 CFR part 251) implements section 14 of the BHC Act,[1] which establishes a financial sector concentration limit that generally prohibits a financial company from merging or consolidating with, or otherwise acquiring, another company if the resulting company's liabilities upon consummation would exceed 10 percent of the aggregate liabilities of all financial companies (a covered acquisition). Under section 14 of the BHC Act and Regulation XX, a financial company means (1) an insured depository institution, (2) a bank holding company, (3) a savings and loan holding company, (4) any other company that controls an insured depository institution, (5) a nonbank financial company designated by the Council for supervision by the Board, or (6) a foreign bank or company that is treated as a bank holding company for purposes of the BHC Act. Regulation XX includes certain reporting requirements that apply to financial companies, and the FR XX–1 collects information from certain financial companies that do not otherwise report consolidated financial information to the Board or another Federal banking agency.

Proposed revisions: The Board proposes to revise the FR XX to account for the reporting provision located at section 251.3(e). This provision of the regulation implements the Council's recommendation to allow a financial company that does not use U.S. generally accepted accounting principles (GAAP) to use another appropriate accounting standard or method of estimation for determining compliance with section 14 of the BHC Act, while ensuring that the Board has an opportunity to review the appropriateness of the company's proposed approach.

The Board proposes to revise the due date for the FR XX–1 report. The FR XX–1 implements section 251.6(a) of Regulation XX, which requires a financial company that does not otherwise report consolidated financial information to the Board or another Federal banking agency to report to the Board its consolidated liabilities as of the previous calendar year-end. Regulation XX provides that this report must be submitted by March 31 of each year. However, the instructions to the FR XX–1 currently state that the report must be submitted 90 calendar days after the December 31 as of date or, if the submission deadline falls on a weekend or holiday, the first business day after the weekend or holiday. Under these instructions, the FR XX–1 could be due prior to March 31 (in a leap year) or after March 31 (if March 31 falls on a weekend or holiday). In order to ensure that the due date of the FR XX–1 coincides with the date set forth in Regulation XX, the Board proposes to revise the FR XX–1 so that it is due by March 31 of the year following the December 31 as of date.

Legal authorization and confidentiality: The FR XX and the FR XX–1 are authorized by section 14 of the BHC Act, which, in relevant part, expressly authorizes the Board to issue "regulations implementing this section" and "interpretations or guidance regarding the application of this section to an individual financial company or to financial companies in general" (12 U.S.C. 1852(d)). The Board also has the authority to require reports from bank holding companies (12 U.S.C. 1844(c)), savings and loan holding companies (12 U.S.C. 1467a(b) and (g)), state member banks (12 U.S.C. 248(a) and 324), and state-licensed branches and agencies of foreign banks, other than insured branches (12 U.S.C. 3105(c)(2)). The obligation to respond is mandatory.

Individual respondents may request that information submitted to the Board through the FR XX or FR XX–1 be kept confidential. If a respondent requests confidential treatment, the Board will determine whether the information is entitled to confidential treatment on a case-by-case basis. To the extent a respondent submits nonpublic commercial or financial information in connection with the FR XX or FR XX–1, which is both customarily and actually treated as private by the respondent, the respondent may request confidential treatment pursuant to exemption 4 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)). The entity should separately designate such information as "confidential commercial information" or "confidential financial information" as appropriate, and the Board will treat such designated information as confidential to the extent permitted by law, including the FOIA.

Board of Governors of the Federal Reserve System, August 17, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–18373 Filed 8–20–20; 8:45 am]

BILLING CODE 6210–01–P

[1] 12 U.S.C. 1852.

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Notification of Nonfinancial Data Processing Activities (FR 4021; OMB No. 7100–0306).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files. These documents also are available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Report title: Notification of Nonfinancial Data Processing Activities.

Agency form number: FR 4021.

OMB control number: 7100–0306.

Frequency: As needed.

Respondents: Bank holding companies (BHCs).

Estimated number of respondents: 1.

Estimated average hours per response: 2.

Estimated annual burden hours: 2.

General description of report: The FR 4021 consists of the notice that BHCs may file to request permission to administer the Regulation Y revenue limit on nonfinancial data processing activities on a business-line or multiple-entity basis. A BHC may submit such a request to the Board's General Counsel in letter form. The request should describe the structure of the requesting BHC's data processing operations, the methodology the BHC proposes to use to administer the 49-percent revenue limit, and the reasons why the BHC believes that the proposed methodology is appropriate.

Legal authorization and confidentiality: The Board is authorized to collect the information associated with the notification process from BHCs pursuant to 12 U.S.C. 1843(c)(8) and (k). The submission of the notification (request) associated with the FR 4021 is required to obtain a benefit. To the extent a BHC submits nonpublic commercial or financial information in connection with the FR 4021, which is both customarily and actually treated as private by the BHC, the BHC may request confidential treatment pursuant to exemption 4 of the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(4). The entity should separately designate such information as ''confidential commercial information'' or ''confidential financial information,'' as appropriate, and the Board will treat such designated information as confidential to the extent permitted by law, including the FOIA, 5 U.S.C. 552.

Current actions: On February 4, 2020, the Board published a notice in the **Federal Register** (85 FR 6181) requesting public comment for 60 days on the extension, without revision, of the FR 4021. The comment period for this notice expired on April 6, 2020. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, August 17, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–18370 Filed 8–20–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Temporary Approval by the Board Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Temporary approval of information collection, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) has temporarily revised the Reporting Requirements Associated with Emergency Lending Under Section 13(3) (FR A; OMB No. 7100–0373), pursuant to the authority delegated to the Board by the Office of Management and Budget (OMB).

DATES: Comments must be submitted on or before October 20, 2020.

ADDRESSES: You may submit comments, identified by *FR A,* by any of the following methods:

- *Agency website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files. These documents also are available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies. Pursuant to its delegated authority, the Board may temporarily approve a revision to a collection of information, without providing opportunity for public comment, if the Board determines that a change in an existing collection must be instituted quickly and that public participation in the approval process would defeat the purpose of the collection or substantially interfere with the Board's ability to perform its statutory obligation.

As discussed below, the Board has made certain temporary revisions to the FR A information collection. The Board's delegated authority requires that the Board, after temporarily approving a collection, publish a notice soliciting public comment. Therefore, the Board is also inviting comment on a proposal to extend the FR A information collection for three years, with these revisions.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Approval Under OMB Delegated Authority of the Temporary Revision of the Following Information Collection

Report title: Reporting Requirements Associated with Emergency Lending Under Section 13(3).

Agency form number: FR A.

OMB control number: 7100–0373.

Frequency: Event-generated.

Respondents: Entities or persons borrowing under an emergency lending program or facility established pursuant to section 13(3) of the Federal Reserve Act.

Estimated number of respondents: FR A–1: 5,964; FR A–2: 4,123; FR A–3: 13,200.

Estimated average hours per response: FR A–1: 8 hours; FR A–2: 40 hours; FR A–3, Lender per-loan certifications: 2 hours; FR A–3, Borrower certifications: 8 hours.

Estimated annual burden hours: 312,656.

General description of report: The Board's Regulation A (12 CFR part 201) establishes policies and procedures with respect to emergency lending under section 13(3) of the Federal Reserve Act, as required by sections 1101 and 1103 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Regulation A requires that borrowers make two certifications in order to participate in any emergency lending authorized under section 13(3). These certifications, designated in this information collection as FR A–1, include that the borrowers are not insolvent and that they cannot obtain adequate credit accommodation.

In addition to these certifications, the Board may establish additional certification requirements for an individual emergency lending facility. The second part of the FR A information collection, the FR A–2, pertains to reporting requirements associated with individual facilities that are related to requirements of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The third part of FR A, designated as the FR A–3, pertains to reporting requirements specific to the Main Street Expanded Loan Facility, the Main Street New Loan Facility, the Main Street Priority Loan Facility, the Nonprofit Organization Expanded Loan Facility, and the Nonprofit Organization New Loan Facility (collectively, the ''Main Street Lending Program'').

Legal authorization and confidentiality: The FR A is authorized pursuant to section 13(3) of the Federal Reserve Act, which sets out requirements for emergency lending. The obligation to respond is required to obtain a benefit.

The information collected under the FR A may be kept confidential under exemption 4 of the Freedom of Information Act, which protects commercial or financial information obtained from a person that is privileged or confidential.

Current actions: The Board is revising the FR A information collection to reflect the establishment of the Nonprofit Organization Expanded Loan Facility and Nonprofit Organization New Loan Facility as part of the Main Street Lending Program. Board staff have coordinated with staff from Treasury and the Federal Reserve Banks to develop certifications that borrowers and lenders will be required to complete to participate in the NOELF and NONLF. These certifications are substantially similar to the certifications that have been developed for the other facilities in the Main Street Lending Program. Borrowers and lenders will be required to certify that the participating borrowers, lenders, and loans meet each of the eligibility requirements of the specific facility. Borrowers will also be required to certify that they have provided documentation to lenders related to certain eligibility requirements. The FR A respondent counts for all parts of the information collection are being revised to reflect these new facilities and updated estimates of the Main Street Lending Program.

Detailed Discussion of Public Comments: On March 2, 2020, the Board published a notice in the **Federal Register** (85 FR 12295) requesting public comment for 60 days on the extension, without revision, of the FR A. One comment was received; it did not address aspects of the information collection as described in 5 CFR 1320.8(d). On May 15, 2020, following the temporary approval of a first set of revisions to the FR A, the Board published a **Federal Register** notice (85 FR 29447) requesting public comment for 60 days on those temporary revisions. On June 4, 2020, following the temporary approval of a second set of revisions to the FR A, the Board published a **Federal Register** notice (85 FR 34448) requesting public comment for 60 days on those temporary revisions. Comments in response to all of those requests for comment are expected to be considered, along with any comments received in response to this request for comment.

Board of Governors of the Federal Reserve System, August 17, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–18372 Filed 8–20–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping Requirements Associated with the Real Estate Lending Standards Regulation for State Member Banks.

DATES: Comments must be submitted on or before October 20, 2020.

ADDRESSES: You may submit comments, identified by FR H–5, by any of the following methods:

- *Agency website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB

number in the subject line of the message.

- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Report title: Recordkeeping Requirements Associated with the Real Estate Lending Standards Regulation for State Member Banks.

Agency form number: FR H–5.

OMB control number: 7100–0261.

Frequency: Policy statement, annually; policy statement (de novo), annually; recordkeeping for loans with loan-to-value (LTV's) that exceed supervisory limits and maintaining a system of review, quarterly.

Respondents: State member banks.

Estimated number of respondents: 754.

Estimated average hours per response: Policy statement, 5 hours; policy statement (de novo), 20 hours; recordkeeping for loans with LTV's that exceed supervisory limits and maintaining a system of review, 5 hours.

Estimated annual burden hours: Policy statement, 3,770 hours; policy statement (de novo), 20 hours; recordkeeping for loans with LTV's that exceed supervisory limits and maintaining a system of review, 15,080 hours.

General description of report: Pursuant to the Board's Regulation H, state member banks (SMBs) must adopt and maintain a written real estate lending policy. Additionally, this information collection includes certain voluntary recordkeeping provisions in the Interagency Guidelines for Real Estate Lending Policies (Guidelines).[1]

Legal authorization and confidentiality: The FR H–5 is authorized by section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA),[2] which provides that "each appropriate Federal banking agency shall adopt uniform regulations prescribing standards for extensions of credit that are—(A) secured by liens on interests in real estate; or (B) made for the purpose of financing the construction of a building or other improvements to real estate." [3] The recordkeeping requirement contained in the Board's Regulation H is mandatory. The recordkeeping provisions in the Guidelines are voluntary, as the Guidelines are nonbinding guidance.

Because these records would be maintained at each banking organization, the Freedom of Information Act ("FOIA") would only be implicated if the Board obtained such records as part of the examination or supervision of a banking organization. In the event the records are obtained by the Board as part of an examination or supervision of a financial institution, this information may be considered confidential pursuant to exemption 8 of the FOIA, which protects information contained in "examination, operating, or condition reports" obtained in the bank supervisory process.[4] In addition, the information may also be kept confidential under exemption 4 of the FOIA, which protects "commercial or financial information obtained from a person [that is] privileged or confidential." [5]

Board of Governors of the Federal Reserve System, August 17, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–18371 Filed 8–20–20; 8:45 am]

BILLING CODE 6210–01–P

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[1] *See* 12 CFR part 208, Appendix C.

[2] 12 U.S.C. 1828(o).

[3] 12 U.S.C. 1828(o)(1). The Board also has the authority to require reports from state member banks (12 U.S.C. 248(a) and 324).

[4] 5 U.S.C. 552(b)(8).

[5] 5 U.S.C. 552(b)(4).

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than September 8, 2020.

A. Federal Reserve Bank of Minneapolis (Chris P. Wangen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Welcome Bancshares, Inc., Welcome, Minnesota;* to engage, de novo, in extending credit and servicing loans pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, August 18, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–18406 Filed 8–20–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Application for Exemption from Prohibited Service at Savings and Loan Holding Companies (FR LL–12; OMB No. 7100–0338).

DATES: Comments must be submitted on or before October 20, 2020.

ADDRESSES: You may submit comments, identified by FR LL–12, by any of the following methods:

- *Agency website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine

the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority to Extend for Three Years, Without Revision, the Following Information Collection

Report title: Application for Exemption from Prohibited Service at Savings and Loan Holding Companies.

Agency form number: FR LL–12.

OMB control number: 7100–0338.

Frequency: As needed.

Respondents: Savings and loan holding companies (SLHCs) and prohibited persons that seek to participate in the affairs of an SLHC.

Estimated number of respondents: Individuals: 43; SLHCs: 2.

Estimated average hours per response: Individuals: 16 hours; SLHCs: 16 hours.

Estimated annual burden hours: Individuals: 688 hours; SLHCs: 32 hours; total: 720 hours.

General description of report: The Federal Deposit Insurance (FDI) Act and the Board's Regulation LL (12 CFR part 238) prohibit individuals who have been convicted of certain criminal offenses or who have agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such criminal offenses from participating in the affairs of a SLHC or any of its subsidiaries without the written consent of the Board. Such an individual, or the SLHC with which the individual seeks to participate, may apply for an exemption from this prohibition.

All prohibited persons and SLHCs that seek an exemption are subject to the application requirements of subpart I of Regulation LL. An applicant must provide information regarding the position at the SLHC held or to be held by the prohibited person, the prohibited person's level of ownership of the SLHC, the specific nature of the offense involved, evidence of rehabilitation, and other relevant factors listed in section 238.88(b) of Regulation LL (12 CFR 238.88(b)). An applicant may submit this information in a letter or by using the Federal Deposit Insurance Corporation's (FDIC) Application Pursuant to Section 19 of the Federal Deposit Insurance Act (OMB No. 3064–0018). The SLHC or prohibited person may seek an exemption only for a designated position (or positions) with respect to an SLHC identified in the application.

Legal authorization and confidentiality: The FR LL–12 is authorized by section 19(e)(2) of the FDI Act, under which the ''Board . . . may provide exemptions [from the prohibition] by regulation or order . . . if the exemption is consistent with the purposes of this subsection.'' The FR LL–12 is required to obtain a benefit.

Individual respondents may request that information submitted to the Board through the FR LL–12 be kept confidential. If a respondent requests confidential treatment, the Board will determine whether the information is entitled to confidential treatment on a case-by-case basis. Information collected through the FR LL–12 may be kept confidential under exemption 4 for the Freedom of Information Act (FOIA), which protects privileged or confidential commercial or financial information, or under FOIA exemption 6, which covers personal information, the disclosure of which would constitute an unwarranted invasion of privacy. Additionally, to the extent the FR LL–12 contains information extracted from examination reports, it may be withheld from disclosure under FOIA exemption 8, which protects information ''related to examination, operating, or condition reports.''

Consultation outside the agency: The Board consulted with the FDIC on the burden estimate and the use of their form for Board submissions.

Board of Governors of the Federal Reserve System, August 17, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–18368 Filed 8–20–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Consolidated Holding Company Report of Equity Investments in Nonfinancial Companies (FR Y–12; OMB No. 7100–0300) and the Annual Report of Merchant Banking Investments Held for an Extended Period (FR Y–12A; OMB No. 7100–0300).

DATES: Comments must be submitted on or before October 20, 2020.

ADDRESSES: You may submit comments, identified by FR Y–12 or FR Y–12A, by any of the following methods:

- *Agency website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to

collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Report Title: Consolidated Bank Holding Company Report of Equity Investments in Nonfinancial Companies, and the Annual Report of Merchant Banking Investments Held for an Extended Period.

Agency form number: FR Y–12 and FR Y–12A, respectively.

OMB control number: 7100–0300.

Frequency: FR Y–12, quarterly and semiannually; and FR Y–12A, annually.

Respondents: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), U.S. intermediate holding companies (IHCs), and financial holding companies (FHCs) that hold merchant banking investments that are approaching the end of the holding periods permissible under Regulation Y.[1]

Number of respondents: FR Y–12 quarterly, 22; FR Y–12 semiannual, 7; and FR Y–12A, 91.

Estimated average hours per response: FR Y–12, 16.5 hours; and FR Y–12A, 7.5 hours.

Estimated annual reporting hours: FR Y–12 quarterly, 1,452 hours; FR Y–12 semiannual, 231 hours; and FR Y–12A, 683 hours.

General description of report: The mandatory FR Y–12 report collects information from certain domestic bank holding companies (BHCs), savings and loan holding companies (SLHCs), and U.S. intermediate holding companies (IHCs) on their equity investments in nonfinancial companies. Respondents report the FR Y–12 either quarterly or semi-annually based on criteria in the report. The mandatory FR Y–12A report is filed annually by financial holding companies (FHCs) that hold merchant banking investments that are approaching the end of the holding periods permissible under the Board's Regulation Y.

Proposed revisions: The Board proposes to revise the FR Y–12 by (1) adding a new column to Schedules A and C to capture unrealized holding gains (losses) on equity securities not held for trading recognized as income in accordance with Accounting Standards Update (ASU 2016–01, ''Recognition and Measurement of Financial Assets and Financial Liabilities''); (2) adding guidance to the instructions for the reporting of equity securities in accordance with ASU 2016–01; and (3) making other minor clarifications and conforming edits to the form and instructions. The revisions to the FR Y–12 will be applicable as of the December 31, 2020, reporting date.

Legal authorization and confidentiality: The Board is authorized to collect information on the FR Y–12 and FR Y–12A reports from BHCs (including BHCs that are FHCs) pursuant to section 5(c) of the Bank Holding Company Act (BHC Act), 12 U.S.C. 1844(c)(1)(A); from SLHCs pursuant to section 10(b)(2) of the Home Owners' Loan Act, 12 U.S.C. 1467a(b)(2), as amended by sections 369(8) and 604(h)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act); and from IHCs pursuant to section 5(c) of the BHC Act, 12 U.S.C. 1844(c)(1)(A), as well as pursuant to sections 102(a)(1) and 165 of the Dodd-Frank Act, 12 U.S.C. 5311(a)(1) and 5365 [2] and Regulation YY, 12 CFR 252.153(b)(2).

In addition, with respect to the FR Y–12A report, section 4(k)(7)(A) of the BHC Act, 12 U.S.C. 1843(k)(7)(A), authorizes the Board and the Treasury Department to jointly develop implementing regulations governing merchant banking activities for purposes of section 4(k)(4)(H) of the BHC Act. Section 4(k)(4)(H) of the BHC Act, 12 U.S.C. 1843(k)(4)(H), and subpart J of the Board's Regulation Y, 12 CFR 225.170 *et seq.,* authorize a BHC that has made an effective FHC election to acquire merchant banking investments that are not otherwise permissible for an FHC. Section 10(c)(2)(H) of HOLA, as amended by section 606(b) of the Dodd-Frank Act, 12 U.S.C. 1467a(c)(2)(H), and section 8(a) of the International Bank Act, 12 U.S.C. 3106(a), extend certain authorities and requirements of the BHC Act to SLHCs and to foreign banks, respectively.

The obligation to respond to the FR Y–12 and FR Y–12A reports is mandatory. The Board does not consider information collected on the FR Y–12

[1] In 2012, the Board indicated that it would require supervised securities holding companies (''SHCs'') to file the FR Y–12 and FR Y–12A reports. 77 FR 32881, 32883 (June 4, 2012). However, no such revisions were ever made to include SHCs as respondents on either report. Upon reflection, the Board has determined that it would not be appropriate at this time to add supervised SHCs to the respondent panel for the FR Y–12 or FR Y–12A reports. A supervised SHCs would not be subject to the restrictions on nonbanking activities that limit the investments of other holding companies. Therefore, any information gathered about SHCs' investments on the FR Y–12 would be of limited use, and would not be comparable to data gathered from other holding companies. Moreover, adding supervised SHCs to the FR Y–12 reporting panel would require significant revisions to the FR Y–12 instructions in order to account for the differences in legal treatment between supervised SHCs and the other respondents. Such revisions could lead to confusion among current FR Y–12 reporters. With respect to the FR Y–12A, the Board is not proposing to add supervised SHCs to the respondent panel because supervised SHCs are not restricted in their ability to make investments in nonfinancial companies, and their investments are not subject to the merchant bank holding periods that apply to FHC investments.

[2] Section 165(b)(2) of the Dodd-Frank Act, 12 U.S.C. 5365(b)(2), refers to ''foreign-based bank holding company.'' Section 102(a)(1) of the Dodd-Frank Act, 12 U.S.C. 5311(a)(1), defines ''bank holding company'' for purposes of Title I of the Dodd-Frank Act to include foreign banking organizations that are treated as bank holding companies under section 8(a) of the International Banking Act, 12 U.S.C. 3106(a). The Board has required, pursuant to section 165(b)(1)(B)(iv) of the Dodd-Frank Act, 12 U.S.C. 5365(b)(1)(B)(iv), certain of the foreign banking organizations that are subject to section 165 of the Dodd-Frank Act to form U.S. intermediate holding companies. Accordingly, the parent foreign-based organization of a U.S. IHC is treated as a BHC for purposes of the BHC Act and section 165 of the Dodd-Frank Act. Because section 5(c) of the BHC Act authorizes the Board to require reports from subsidiaries of BHCs, section 5(c) provides additional authority to require U.S. IHCs to report the information contained in the FR Y–12 and FR Y–12A reports.

report to be confidential, and the completed version of this report generally is made available to the public upon request. However, in certain instances, specific information collected on an individual institution's FR Y–12 report may be exempt from disclosure pursuant to exemption 4 of the Freedom of Information Act (FOIA), which protects from public disclosure ''trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential'' (5 U.S.C. 552(b)(4)). A reporting holding company may request confidential treatment for the specific data items the company believes should be withheld pursuant to exemption 4 of the FOIA, as provided in the Board's Rules Regarding Availability of Information (12 CFR part 261.15). A request for confidential treatment should be submitted in writing concurrently with the submission of the FR Y–12 report. This written request must identify the specific data for which confidential treatment is sought and must provide the legal justification for which confidentiality is requested. The Federal Reserve will review any such request on a case-by-case basis to determine if confidential treatment is appropriate. The Federal Reserve may subsequently release information for which confidential treatment is requested, if (1) disclosure of such information is required by law (other than 5 U.S.C. 552); (2) the reporting holding company requested confidential treatment pursuant to 5 U.S.C. 552(b)(4) and more than 10 years have passed since the date of the submission unless the reporting company has requested and provided justification for a longer designation period; or (3) less than 10 years have passed since the request, but the Board believes that the information cannot be withheld from disclosure under 5 U.S.C. 552(b)(4), and the reporting holding company is provided with written notice of the Board's views and with an opportunity to object to the Board's disclosure.

Board of Governors of the Federal Reserve System, August 18, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–18428 Filed 8–20–20; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10598 and CMS–10570]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by October 20, 2020.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ______, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10598 Generic Clearance for Evaluation of Stakeholder Training—Health Insurance Marketplace and Market Stabilization Programs

CMS–10570 Appropriate Use Criteria (AUC) for Advanced Diagnostic Imaging Services

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved information collection; *Title of Information Collection:* Generic Clearance for Evaluation of Stakeholder Training—Health Insurance Marketplace and Market Stabilization Programs; *Use:* CMS is strongly committed to providing appropriate education and technical outreach to States, issuers, self-insured group health plans and third-party administrators

(TPA) participating in the Marketplace and/or market stabilization programs mandated by the ACA. CMS continues to engage with stakeholders in the Marketplace to obtain input through Satisfaction Surveys following Stakeholder Training events. The survey results will help to determine stakeholders' level of satisfaction with trainings, identify any issues with training and technical assistance delivery, clarify stakeholders' needs and preferences, and define best practices for training and technical assistance. CMS will continue to modify, enhance and develop forms for future years based on feedback from Stakeholders. *Form Number:* CMS–10598 (OMB control number: 0938–1331); *Frequency:* Occasionally; *Affected Public:* Private Sector; *Number of Respondents:* 30,332; *Number of Responses:* 30,332; *Total Annual Hours:* 7,334. For questions regarding this collection contact Sonia Henderson at 301–492–4320.

2. *Type of Information Collection Request:* Reinstatement of a previously approved collection; *Title of Information Collection:* Appropriate Use Criteria (AUC) for Advanced Diagnostic Imaging Services; *Use:* Section 218(b) of the Protecting Access to Medicare Act (PAMA) of 2014 amended the Medicare Part B statute by adding a new section 1834(q) of the Act entitled, ''Recognizing Appropriate Use Criteria for Certain Imaging Services,'' which directs the Secretary to establish a program to promote the use of AUC. This program is codified at 42 CFR 414.94. Evidence-based AUC for imaging can assist clinicians in selecting the imaging study that is most likely to improve health outcomes for patients based on their individual context. A provider-led entity (PLE) as defined in 42 CFR 414.94(b) is a national professional medical specialty society or other organization that is comprised primarily of providers or practitioners who, either within the organization or outside the organization, predominantly provide direct patient care. This program requires professionals ordering applicable imaging services as defined in § 414.94(b) to consult with specified applicable AUC, which are criteria developed, endorsed or modified by a qualified PLE.

The cornerstone of the PLE qualification process is for PLEs to demonstrate that they engage in a rigorous evidence-based process for developing, modifying, or endorsing AUC. Section 1834(q)(2)(B) specifies that the Secretary must consider whether AUC have stakeholder consensus, are scientifically valid and evidence-based, and are based on studies that are published and reviewable by stakeholders. In the 2016 Physician Fee Schedule Final Rule with comment period (80 FR 70886, November 16, 2015; see pages 71102–71116 and pages 71380–71382) we established a qualification process and requirements for qualified PLEs in order to ensure that the AUC development or endorsement processes used by a PLE result in high quality, evidence-based AUC in accordance with section 1834(q)(2)(B).

In order to become and remain a qualified PLE, we require PLEs to demonstrate adherence to specific requirements when developing, modifying or endorsing AUC. To ensure that these requirements are met, we require PLEs to submit information demonstrating their adherence to these requirements. CMS qualifies those PLEs that demonstrate adherence to the requirements for a period of five years. Qualified PLEs are also required, during the 5th year after their most recent approval date, to ensure adherence has been maintained and to account for any changes in the entities' processes. Qualified PLEs must reapply every five years and must submit the applications by January 1 of the 5th year after the PLE's most recent approval date. *Form Number:* CMS–10570 (OMB control number: 0938–1288); *Frequency:* Occasionally; *Affected Public:* Private: Business or other for-profit and Not for-profit institutions; *Number of Respondents:* 10; *Number of Responses:* 10; *Total Annual Hours:* 150. (For policy questions regarding this collection, contact Heather Hostetler at 410–786–4515.)

Dated: August 17, 2020.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2020–18337 Filed 8–20–20; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10437]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by October 20, 2020.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ________, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

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1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10437 Generic Social Marketing & Consumer Testing Research

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection* Request: Extension of a currently approved collection; *Title of Information Collection:* Generic Social Marketing & Consumer Testing Research; *Use:* The purpose of this submission is to extend the approval of the generic clearance for a program of consumer research aimed at a broad audience of those affected by CMS programs including Medicare, Medicaid, Children's Health Insurance Program (CHIP), and health insurance exchanges. This program extends strategic efforts to reach and tailor communications to beneficiaries, caregivers, providers, stakeholders, and any other audiences that would support the Agency in improving the functioning of the health care system, improve patient care and outcomes, and reduce costs without sacrificing quality of care. The information collected will be used to create a streamlined and proactive process for collection of data and utilizing the feedback on service delivery for continuous improvement of communication activities aimed at diverse CMS audiences.

The generic clearance will allow rapid response to inform CMS initiatives using a mixture of qualitative and quantitative consumer research strategies (including formative research studies and methodological tests) to improve communication with key CMS audiences. As new information resources and persuasive technologies are developed, they can be tested and evaluated for beneficiary response to the materials and delivery channels. Results will inform communication development and information architecture as well as allow for continuous quality improvement. The overall goal is to maximize the extent to which consumers have access to useful sources of CMS program information in a form that can help them make the most of their benefits and options

The activities under this clearance involve social marketing and consumer research using samples of self-selected customers, as well as convenience samples, and quota samples, with respondents selected either to cover a broad range of customers or to include specific characteristics related to certain products or services. All collection of information under this clearance will utilize a subset of items drawn from a core collection of customizable items referred to as the Social Marketing and Consumer Testing Item Bank. This item bank is designed to establish a set of pre-approved generic question that can be drawn upon to allow for the rapid turn-around consumer testing required for us to communicate more effectively with our audiences. The questions in the item bank are divided into two major categories. One set focuses on characteristics of individuals and is intended primarily for participant screening and for use in structured quantitative on-line or telephone surveys. The other set is less structured and is designed for use in qualitative one-on-one and small group discussions or collecting information related to subjective impressions of test materials. Results will be compiled and disseminated so that future communication can be informed by the testing results. We will use the findings to create the greatest possible public benefit. *Form Number:* CMS–10437 (OMB control number: 0938–1247); *Frequency:* Yearly; *Affected Public:* Individuals; *Number of Respondents:* 7,732; *Number of Responses:* 61,992; *Total Annual Hours:* 26,588. (For policy questions regarding this collection contact Sabreet Kang Rajeev at 410–786–5616.)

Dated: August 18, 2020.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2020–18430 Filed 8–20–20; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Environmental Health Sciences Council.

The meeting will be open to the public as indicated below and held as a virtual meeting. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The open session will be virtual and can be accessed from the public NIEHS website: *https://www.niehs.nih.gov/news/webcasts/.*

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Environmental Health Sciences Council.

Date: September 15–16, 2020.

Closed: September 15, 2020, 10:00 a.m. to 10:45 a.m.

Agenda: To review and evaluate consideration of Grant Applications.

Place: Division of Extramural Research and Training, National Institute of Environmental Health Sciences, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709 (Virtual Meeting).

Open: September 15, 2020, 11:00 a.m. to 2:15 p.m.

Agenda: People Not Projects Update & Concept Clearances.

Place: Division of Extramural Research and Training, National Institute of Environmental Health Sciences, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709, *https://www.niehs.nih.gov/news/webcasts/* (Virtual Meeting).

Open: September 16, 2020, 10:00 a.m. to 2:40 p.m.

Agenda: Proposed Division of Extramural Research and Training Actions to Address Funding Gap/Council Discussion.

Place: Division of Extramural Research and Training, National Institute of Environmental Health Sciences, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709, *https://www.niehs.nih.gov/news/webcasts/* (Virtual Meeting).

Contact Person: Patrick Mastin, Ph.D., Chief, Cellular, Organs, and Systems Pathobiology Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, 984–287–3285, *mastin@niehs.nih.gov.*

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *https://www.niehs.nih.gov/about/boards/naehsc/index.cfm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: August 17, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–18342 Filed 8–20–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Information, Strategic Opportunities and Challenges for the National Library of Medicine, National Institutes of Health

AGENCY: National Institutes of Health, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The purpose of this Request for Information (RFI) is to solicit public comment to assist and guide the National Library of Medicine (NLM) in identifying new, and updating ongoing, efforts to implement the NLM Strategic Plan 2017–2027: A Platform for Biomedical Discovery and Data-Powered Health.

DATES: Comments must be received on or before (5:00 p.m. ET) October 19, 2020 to ensure consideration.

ADDRESSES: Comments to this RFI must be submitted electronically using the web-based form at: *https://rfi.grants.nih.gov/?s=5f15a5e3104800009c001082.*

FOR FURTHER INFORMATION CONTACT: Leigh Samsel, MS, NLM Planning and Evaluation Officer, Office of Strategic Initiatives, National Library of Medicine, 8600 Rockville Pike, Building 38, Rm 2S–14, Bethesda, MD 20894, *samsell@nih.gov,* 301–451–0162. Inquiries should be sent to *NLMStrategicPlanning@nih.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Library of Medicine (NLM) is one of the 27 Institutes and Centers of the National Institutes of Health (NIH) and the world's largest biomedical library. Like other NIH Institutes and Centers, NLM supports and conducts research and research training relevant to its mission; for NLM, this includes information science, informatics, data analytics, and data science to advance computational biology and computational health science. Research is conducted intramurally in the NLM National Center for Biotechnology Information (NCBI) and Lister Hill National Center for Biomedical Communications (LHNCBC) and is supported extramurally through the Division of Extramural Programs.

As a national library, NLM is steward of a world-renowned collection of medical materials spanning ten centuries and originating from nearly every part of the globe, and it supports, promotes, and advances open science and scholarship through development and stewardship of integrated standards, tools, platforms, practices, policies, and resources that make biomedical information (including literature, research data, software tools, etc.) findable, accessible, interoperable, and reusable to the world. Library functions are conducted by the Division of Library Operations, and are also integrated with the world-class digital platforms, resources, assets, and expertise of NCBI and LHNCBC.

This notice is in accordance with the 21st Century Cures Act, NIH Institutes are required to regularly update their strategic plans. The current NLM Strategic Plan for 2017—2027: A Platform for Biomedical Discovery and Data-Powered Health, was written in 2016 with input from many diverse stakeholder communities. Since then, many dozens of initiatives, projects, and other activities have been conducted to address the objectives of the Plan. Also, since then, significant changes have taken place in NLM mission-space in terms of science, technology, public health, library functions, scholarly communication, stakeholder perspectives, policies, workforce, and more. These include an urgent focus on understanding a novel coronavirus and the disease it causes; an increased prominence of artificial intelligence in biomedical research and library functions; new policies reflecting the embrace of open science by governments, funders, publishers, scientists, and the public at large; issuance of the NIH Strategic Plan for Data Science; an accelerating use of social media and preprints by researchers to disseminate their findings; and an increasing need for data-savvy scientists and a data-ready public to make the most of digital assets to improve biomedical understanding and health.

Information Requested

NLM is requesting public comment on major opportunities or challenges relevant to the NLM mission that have arisen or become more important in the last five years and that have implications for the future of NLM in its capacity both as an institution conducting and supporting research and as a national library providing biomedical information products, services, training, capacity-building, and other resources to the world. This information will be used to guide NLM's continuing implementation of its strategic plan. Response to this RFI is voluntary. Respondents are free to address any or all topics listed below and are encouraged for each topic

addressed to describe the opportunity or challenge and how NLM might address it.

1. Major opportunities or challenges that have emerged over the last five years and that have implications for the future of NLM in the area of:

a. Science (including clinical health sciences, biomedical science, information science, informatics, data analytics, data science, etc.)

b. Technology (including biotechnology, platforms, hardware, software, algorithms, processes, systems, etc.)

c. Public health, consumer health, and outreach (including epidemic disease surveillance, culturally competent engagement, optimizing the experience of resource users, etc.)

d. Library functions (including collection development, access, preservation, indexing, library metadata, service agreements with other libraries, etc.)

e. Modes of scholarly communication (including researchers' use of social media, preprints, living papers, changes in the roles and practices of publishers, data-driven approaches to studying historical medical texts, images, and datasets, etc.)

f. Perspectives, practices, and policies (including those related to open science, the need for diversity, equity, and inclusion in research, algorithmic bias, expectations of reproducibility of research, etc.)

g. Workforce needs (including data science competencies, effective strategies for recruitment and retention of underrepresented minorities, opportunities for training and continuing education for middle- and late-career researchers and librarians, etc.)

2. Major opportunities or challenges that have emerged in the last five years and that have implications for the future of NLM in other areas or areas not well captured above.

3. Opportunities or challenges on the horizon over the next five years that fall within the purview of the NLM's mission.

Submitting a Response

For consideration, your comments must be received on or before (5:00 p.m. ET) October 19, 2020 to ensure consideration. Please include: (1) The name, (2) organizational affiliation of the commenter, and (3) the role the commenter plays at that organization (*e.g.,* librarian, healthcare provider, scientist, student, etc.). Comments to this RFI must be submitted electronically using the web-based form at: *https://rfi.grants.nih.gov/?s=5f15a5e3104800009c001082.*

NLM will use the information submitted in response to this RFI at its discretion and will neither provide responses to nor acknowledge receipt of the submissions. The information provided will be analyzed and may be shared publicly or appear in reports without the name or affiliation of the commenter. No proprietary, classified, confidential, or sensitive information should be included in your response. The Government reserves the right to use any non-proprietary technical information in any resultant summaries of the state-of-the-science or solicitation(s). This RFI is for information and planning purposes only and shall not be construed as a solicitation, grant, or cooperative agreement, or as an obligation on the part of the Federal Government, the NIH, or individual NIH Institutes and Centers to provide support for any ideas identified in response to it.

The Government will not pay for the preparation of any information submitted or for the Government's use of such information. No basis for claims against the U.S. Government shall arise as a result of a response to this request for information or from the Government's use of such information.

Dated: August 17, 2020.

Todd D. Danielson,

Associate Director for Administrative Management and Executive Officer, National Library of Medicine, National Institutes of Health.

[FR Doc. 2020–18346 Filed 8–20–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2020–0486]

Merchant Marine Personnel Advisory Committee; September 2020 Teleconference

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee teleconference meeting.

SUMMARY: The Merchant Marine Personnel Advisory Committee (Committee) will meet via teleconference to discuss issues related to the training and fitness of merchant marine personnel. The meeting will be open to the public.

DATES:

Meeting: The Merchant Marine Personnel Advisory Committee is scheduled to meet on Tuesday, September 15, 2020, from 9 a.m. until 2:30 p.m. (EDT). The meeting may adjourn early if the Committee has completed its business.

Comments and supporting documentation: To ensure your comments are received by Committee members before the teleconference, submit your written comments no later than September 8, 2020.

ADDRESSES: To join the teleconference or to request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. on September 8, 2020, to obtain the needed information. The number of individuals on a teleconference line is limited and will be available on a first-come, first served basis.

Instructions: You are free to submit comments at any time, including orally at the teleconference as time permits, but if you want Committee members to review your comments before the teleconference, please submit your comments no later than September 8, 2020. We are particularly interested in comments on the issues in the "Agenda" section below.

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov*. If your material cannot be submitted using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number [USCG–2020–0486]. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. For more about privacy and submissions in response to this document, see DHS's Correspondence System of Records notice (84 FR 48645, September 26, 2018). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Ms. Megan Johns Henry, Alternate Designated Federal Officer of the Merchant Marine Personnel Advisory

Committee, 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509, telephone 202–372–1255, or *megan.c.johns@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the *Federal Advisory Committee Act,* 5 U.S.C. Appendix.

The Merchant Marine Personnel Advisory Committee is established under authority of U.S. Code, Title 46, section 8108. The Committee acts solely in an advisory capacity to the Secretary of the Department of Homeland Security through the Commandant of the U.S. Coast Guard on matters relating to personnel in the United States merchant marine, including training, qualifications, certification, documentation, and fitness standards and other matters as assigned by the Commandant. The Committee also reviews and comments on proposed U.S. Coast Guard regulations and policies relating to personnel in the United States merchant marine, including training, qualifications, certification, documentation, and fitness standards.

Agenda

The agenda for the September 15, 2020 full Committee meeting is as follows:

(1) Introduction.

(2) Designated Federal Officer remarks.

(3) Remarks from U.S. Coast Guard Leadership.

(4) Roll call of Committee members and determination of a quorum.

(5) Acceptance of Meeting 51 Minutes.

(6) Report on Working Groups and Discussion of Working Group recommendations.

The Committee will review the information presented on each issue, deliberate on any recommendations presented by the Working Groups, approve/formulate recommendations and close any completed tasks. Official action on these recommendations may be taken:

(a) Task Statement 90, Review of IMO Model Courses Being Validated by the IMO HTW Subcommittee;

(b) Task Statement 94, MERPAC Recommendation Review;

(c) Task Statement 101, Communication Between External Stakeholders and the Mariner Credentialing Program;

(d) Task Statement 105, Military Education, Training and Assessment for STCW and National Mariner Endorsements;

(e) Task Statement 106, STCW Convention and Code Review;

(f) Task Statement 107, Review of NOAA Sunsetting Program of Paper Nautical Chart Production.

(7) Report on establishment of National Merchant Marine Personnel Advisory Committee

(8) Report on National Maritime Center.

(9) Report on Job Task Analysis.

(10) Public comment period.

(11) Member recognition.

(12) Closing remarks.

(13) Adjournment of meeting.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/missions/ports-and-waterways/safety-advisory-committees/merpac* no later than September 8, 2020. Alternatively, you may contact Ms. Megan Johns Henry as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

During the September 15, 2020 teleconference, a public comment period will be held from approximately 1:30–1:45 p.m. (EDT). Public comments will be limited to two minutes per speaker. Please note that the public comment periods will end following the last call for comments. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a speaker.

Dated: August 17, 2020.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2020–18329 Filed 8–20–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2020–0487]

Merchant Mariner Medical Advisory Committee; September 2020 Teleconference

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee teleconference meeting.

SUMMARY: The Merchant Mariner Medical Advisory Committee (Committee) and its working groups will meet via teleconference to discuss matters relating to medical certification determinations for issuance of licenses, certificates of registry, and merchant mariners' documents, medical standards and guidelines for the physical qualifications of operators of commercial vessels, medical examiner education, and medical research. The meeting will be open to the public.

DATES: *Meeting:* The Merchant Mariner Medical Advisory Committee and its working groups will meet by teleconference on Tuesday, September 22, 2020, from 11 a.m. until 2:30 p.m. (EDT). The teleconference may adjourn early if the Committee has completed its business.

Comments and supporting documentation: To ensure your comments are received by Committee members before the teleconference, submit your written comments no later than September 15, 2020.

ADDRESSES: To join the teleconference or to request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. on September 15, 2020, to obtain the needed information. The number of teleconference lines are limited and will be available on a first-come, first-served basis.

Instructions: You are free to submit comments at any time, including orally at the teleconference as time permits, but if you want Committee members to review your comment before the teleconference, please submit your comments no later than September 15, 2020. We are particularly interested in comments on the issues in the ''Agenda'' section below. We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number [USCG–2020–0487]. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign-up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lalor, Alternate Designated Federal Officer of the Merchant Mariner

Medical Advisory Committee, 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509, telephone 202–372–1361, fax 202–372–4908 or *michael.w.lalor@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the *Federal Advisory Committee Act,* 5 U.S.C. Appendix.

The Merchant Mariner Medical Advisory Committee Meeting is authorized by U.S. Code, Title 46, section 7115. The Committee advises the Secretary of the Department of Homeland Security on matters related to: (a) Medical certification determinations for issuance of licenses, certificates of registry, and merchant mariners' documents; (b) medical standards and guidelines for the physical qualifications of operators of commercial vessels; (c) medical examiner education; and (d) medical research.

Agenda

The agenda for the September 22, 2020, teleconference is as follows:

(1) Introduction.

(2) Designated Federal Officer remarks.

(3) Remarks from the Committee Chairman.

(4) Remarks from U.S. Coast Guard Leadership.

(5) Roll call of Committee members and determination of a quorum.

(6) Report on Status of Working Groups, Determination on Intercessional Meetings and Discussion of Working Group recommendations. The Committee will review the information presented on each issue, deliberate on any recommendations presented by the Working Groups, approve/formulate recommendations and close any completed tasks. Official action on these recommendations may be taken:

(a) Task Statement 18–27, Recommendations on Mariner Mental Health;

(b) Task Statement 18–28, Communication Between External Stakeholders and the Mariner Credentialing Program;

(c) Task Statement 19–29, Review of CG Forms CG–719K, CG–719K/E, and CG–719P;

(d) Task Statement 19–30, Additional Guidance on Conduct of the General Medical Exam; and

(e) Task Statement 19–31, Medical Certifications for Military to Mariner Applicants.

(7) Update from the National Maritime Center, Medical Evaluations Division.

(8) Discussion on transition to the National Merchant Mariner Medical Advisory Committee (N–MEDMAC).

(9) Public comment period.

(10) Committee Member Recognitions.

(11) Closing remarks/plans for next meeting.

(12) Adjournment of meeting.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/missions/ports-and-waterways/safety-advisory-committees/* no later than September 15, 2020. Alternatively, you may contact Mr. Michael Lalor as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

During the September 22, 2020 teleconference, a public comment period will be held immediately after the discussion of the transition to the N-MEDMAC at approximately 2:00 p.m. Public comments will be limited to two minutes per speaker. Please note that the public comment periods will end following the last call for comments. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a speaker.

Dated: August 17, 2020.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2020–18333 Filed 8–20–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of December 30, 2020, has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Mohave County, Arizona and Incorporated Areas Docket No.: FEMA–B–1969	
Fort Mojave Indian Reservation	Fort Mojave Indian Tribe, 500 Merriman Avenue, Needles, CA 92363.
Unincorporated Areas of Mohave County	Mohave County Development Services, 3250 East Kino Avenue, Kingman, AZ 86409.
Walton County, Florida and Incorporated Areas Docket No.: FEMA–B–1647	
City of Freeport	City Hall, 112 State Highway 20 West, Freeport, FL 32439.
Unincorporated Areas of Walton County	Walton County Planning and Development Services Department, 31 Coastal Centre Boulevard, Santa Rosa Beach, FL 32459.
Douglas County, Georgia and Incorporated Areas Docket No.: FEMA–B–1708; FEMA B–1968	
City of Douglasville	City Hall, 6695 Church Street, Douglasville, GA 30134.
Unincorporated Areas of Douglas County	Douglas County Courthouse, 8700 Hospital Drive, Douglasville, GA 30134.
Buchanan County, Iowa and Incorporated Areas Docket No.: FEMA–B–1933	
City of Aurora	City Office, 313 Main Street, Aurora, IA 50607.
City of Brandon	City Hall, 400 North Street, Brandon, IA 52210.
City of Fairbank	City Hall, 116 East Main Street, Fairbank, IA 50629.
City of Hazleton	City Hall, 111 3rd Street North, Hazleton, IA 50641.
City of Independence	City Hall, 331 1st Street East, Independence, IA 50644.
City of Jesup	City Hall, 791 6th Street, Jesup, IA 50648.
City of Lamont	City Hall, 644 Bush Street, Lamont, IA 50650.
City of Quasqueton	City Hall, 113 Water Street North, Quasqueton, IA 52326.
City of Stanley	Mayor's Office, 128 East Main Street, Stanley, IA 50671.
City of Winthrop	City Clerk's Office, 354 Madison Street, Winthrop, IA 50682.
Unincorporated Areas of Buchanan County	Buchanan County Courthouse Zoning Office, 210 5th Avenue Northeast, Suite I, Independence, IA 50644.
Macomb County, Michigan (All Jurisdictions) Docket No.: FEMA–B–1945	
City of New Baltimore	City Hall, 36535 Green Street, New Baltimore, MI 48047.
City of St. Clair Shores	City Hall, 27600 Jefferson Avenue, St. Clair Shores, MI 48081.
Township of Chesterfield	Municipal Offices, 47275 Sugarbush Road, Chesterfield, MI 48047.
Township of Harrison	Administrative Offices, 38151 L'Anse Creuse, Harrison Township, MI, 48045.
Clay County, South Dakota and Incorporated Areas Docket No.: FEMA–B–1936	
City of Vermillion	City Hall, 25 Center Street, Vermillion, SD 57069.
Town of Wakonda	Town Office, 111 Ohio Street, Wakonda, SD 57073.
Unincorporated Areas of Clay County	Clay County Courthouse, 211 West Main Street, Vermillion, SD 57069.
Brazoria County, Texas and Incorporated Areas Docket No.: FEMA–B–1860	
City of Alvin	Public Services Facility Building Engineering Department, 1100 West Highway 6, Alvin, TX 77511.
City of Angleton	City Secretary's Office, 121 South Velasco Street, Angleton, TX 77515.
City of Brazoria	City Hall, 201 South Main Street, Brazoria, TX 77422.
City of Brookside Village	City Hall, 6243 Brookside Road, Brookside Village, TX 77581.
City of Clute	City Hall, 108 East Main Street, Clute, TX 77531.
City of Danbury	City Hall, 6102 5th Street, Danbury, TX 77534.
City of Freeport	City Hall, 200 West 2nd Street, Freeport, TX 77541.
City of Hillcrest Village	Hillcrest Village City Hall, 106 West Blackstone Lane, Alvin, TX 77511.
City of Iowa Colony	Iowa Colony City Hall, 12003 County Road 65, Rosharon, TX 77583.
City of Lake Jackson	City Hall, 25 Oak Drive, Lake Jackson, TX 77566.
City of Liverpool	City Hall, 8901 Calhoun Street, Liverpool, TX 77577.
City of Manvel	City Hall, 20025 Highway 6, Manvel, TX 77578.
City of Oyster Creek	City Hall, 3210 FM 523, Oyster Creek, TX 77541.
City of Pearland	Engineering and Capital Projects Department Engineering Division, 3519 Liberty Drive, Pearland, TX 77581.
City of Richwood	City Hall, 1800 Brazosport Boulevard North, Richwood, TX 77531.
City of Sandy Point	Brazoria County West Annex Building, 451 North Velasco Street, Suite 210, Angleton, TX 77515.

Community	Community map repository address
City of Surfside Beach	City Hall, 1304 Monument Drive, Surfside Beach, TX 77541.
City of Sweeny	City Hall, 102 West Ashley Wilson Road, Sweeny, TX 77480.
City of West Columbia	City Hall, 512 East Brazos Avenue, West Columbia, TX 77486.
Town of Holiday Lakes	Town Hall, 195 North Texas Avenue, Holiday Lakes, TX 77515.
Town of Quintana	Town Hall, 814 North Lamar Street, Quintana, TX 77541.
Unincorporated Areas of Brazoria County	Brazoria County West Annex Building, 451 North Velasco Street, Suite 210, Angleton, TX 77515.
Village of Bailey's Prairie	Bailey's Prairie Floodplain Administrator's Office, 201 South Velasco Street, Angleton, TX 77515.
Village of Bonney	Brazoria County West Annex Building, 451 North Velasco Street, Suite 210, Angleton, TX 77515.
Village of Jones Creek	City Hall, 7207 Stephen F. Austin Road, Jones Creek, TX 77541.
Caldwell County, Texas and Incorporated Areas Docket No.: FEMA–B–1757	
City of Luling	City Hall, 509 East Crockett Street, Luling, TX 78648.
City of Martindale	City Hall, 409 Main Street, Martindale, TX 78655.
City of San Marcos	City Hall, 630 East Hopkins Street, San Marcos, TX 78666.
Unincorporated Areas of Caldwell County	Caldwell County Courthouse, 110 South Main Street, Lockhart, TX 78644.
Guadalupe County, Texas and Incorporated Areas Docket No.: FEMA–B–1757 and FEMA–B–1938	
City of Luling	City Hall, 509 East Crockett Street, Luling, TX 78648.
City of Staples	Civic Center, 9615 FM 621, Staples, TX 78670.
Unincorporated Areas of Guadalupe County	Guadalupe County Environmental Health Department, 2605 North Guadalupe Street, Seguin, TX 78155.
Pierce County, Wisconsin and Incorporated Areas Docket No.: FEMA–B–1932	
Unincorporated Areas of Pierce County	Pierce County Courthouse, 414 West Main Street, Ellsworth, WI 54011.
Village of Spring Valley	Village Office, East 121 South 2nd Street, Spring Valley, WI 54767.

[FR Doc. 2020–18420 Filed 8–20–20; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Homeland Security (DHS).

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that

are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Alabama:					
Houston (FEMA Docket No.: B–2040).	City of Dothan, (19–04–4944P).	The Honorable Mark Saliba, Mayor, City of Dothan, P.O. Box 2128, Dothan, AL 36303.	Engineering Services Department, P.O. Box 2128, Dothan, AL 36303.	Jul. 15, 2020 ..	010104
Mobile, (FEMA Docket No.: B–2040).	Unincorporated areas of Mobile County, (19–04–4767P).	The Honorable Connie Hudson, President, Mobile County Commission, 205 Government Street, Mobile, AL 36644.	Mobile County Department of Public Works, 205 Government Street, Mobile, AL 36644.	Jun. 15, 2020	015008
Montgomery (FEMA Docket No.: B–2040).	Town of Pike Road, (19–04–1913P).	The Honorable Gordon Stone, Mayor, Town of Pike Road, 9575 Vaughn Road, Pike Road, AL 36064.	City Hall, 9575 Vaughn Road, Pike Road, AL 36064.	Jul. 6, 2020	010433
Montgomery (FEMA Docket No.: B–2040).	Unincorporated areas of Montgomery County, (19–04–1913P).	The Honorable Elton Dean, Chairman, Montgomery County Board of Commissioners, P.O. Box 1667, Montgomery, AL 36104	Montgomery County Engineering Department, 25 Washington Avenue, Montgomery, AL 36104.	Jul. 6, 2020	010278
Talladega (FEMA Docket No.: B–2042).	Unincorporated areas of Talladega County, (19–04–4279P).	The Honorable Kelvin Cunningham, Chairman, Talladega County Commission, P.O. Box 6170, Talladega, AL 35161.	Talladega County Highway Department, Engineering Office, 500 Institute Lane, Talladega, AL 3516.	Jul. 16, 2020 ..	010297
Colorado: Broomfield, (FEMA Docket No.: B–2034).	City and County of Broomfield, (19–08–1004P).	The Honorable Patrick Quinn, Mayor, City and County of Broomfield, 1 DesCombes Drive, Broomfield, CO 80020.	Engineering Department, 1 DesCombes Drive, Broomfield, CO 80020.	Jul. 6, 2020	085073
Florida:					
Collier, (FEMA Docket No.: B–2034).	Unincorporated areas of Collier County, (19–04–6241P).	Mr. Burt L. Saunders, Chairman, Collier County Board of Commissioners, 3299 Tamiami Trail East, Suite 303, Naples, FL 34112.	Collier County Growth Management Department, 2800 North Horseshoe Drive, Naples, FL 34104.	Jul. 14, 2020 ..	120067
Lee, (FEMA Docket No.: B–2023).	City of Sanibel, (19–04–6595P).	The Honorable Kevin Ruane, Mayor, City of Sanibel, 800 Dunlop Road, Sanibel, FL 33957.	Community Services Department, 800 Dunlop Road, Sanibel, FL 33957.	Jul. 15, 2020 ..	120402
Palm Beach, (FEMA Docket No.: B–2023).	City of Westlake, (19–04–3409P).	Mr. Kenneth G. Cassel, City of Westlake Manager, 4001 Seminole Pratt Whitney Road, Westlake, FL 33470.	City Hall, 4001 Seminole Pratt Whitney Road, Westlake, FL 33470.	Jul. 15, 2020 ..	120018
Massachusetts:					
Plymouth, (FEMA Docket No.: B–2023).	Town of Duxbury, (20–01–0284P).	The Honorable David J. Madigan, Chairman, Town of Duxbury Board of Selectmen, 878 Tremont Street, Duxbury, MA 02332.	Planning Department, 878 Tremont Street, Duxbury, MA 02332.	Jul. 6, 2020	250263
Plymouth, (FEMA Docket No.: B–2023).	Town of Marshfield, (20–01–0284P).	The Honorable Joseph E. Kelleher, Chairman, Town of Marshfield Board of Selectmen, 870 Moraine Street, Marshfield, MA 02050.	Building Department, 870 Moraine Street, Marshfield, MA 02050.	Jul. 6, 2020	250273
New Mexico: Lea, (FEMA Docket No.: B–2034).	City of Hobbs, (19–06–2692P)	The Honorable Sam D. Cobb, Mayor, City of Hobbs, 200 East Broadway Street, Hobbs, NM 88240.	Engineering Department, 200 East Broadway Street, Hobbs, NM 88240.	Jul. 16, 2020 ..	350029
Oklahoma: Tulsa, (FEMA Docket No.: B–2023).	City of Tulsa, (18–06–3174P).	The Honorable G.T. Bynum, Mayor, City of Tulsa, 175 East 2nd Street, Tulsa, OK 74103.	Development Services Department, 175 East 2nd Street, Suite 450, Tulsa, OK 74103.	Jul. 9, 2020	405381
Pennsylvania: Montgomery, (FEMA Docket No.: B–2023).	Township of Whitpain, (19–03–1425P).	The Honorable Frederick R. Conner, Jr., Chairman, Township of Whitpain Board of Supervisors, 960 Wentz Road, Blue Bell, PA 19422.	Township Hall, 960 Wentz Road, Blue Bell, PA 19422.	Jul. 6, 2020	420713
Rhode Island:					
Washington, (FEMA Docket No.: B–2023).	Town of Hopkinton, (20–01–0268P).	The Honorable Frank Landolfi, President, Town of Hopkinton Council, 1 Town House Road, Hopkinton, RI 02833.	Town Hall, 1 Town House Road, Hopkinton, RI 02833.	Jul. 6, 2020	440028

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Washington, (FEMA Docket No.: B–2023).	Town of Richmond, (20–01–0268P).	The Honorable Rich Nassaney, President, Town of Richmond Council, 5 Richmond Townhouse Road, Wyoming, RI 02898.	Town Hall, 5 Richmond Townhouse Road, Wyoming, RI 02898.	Jul. 6, 2020	440031
Texas:					
Collin, (FEMA Docket, No.: B–2023).	City of Plano, (20–06–0804P).	The Honorable Harry LaRosiliere, Mayor, City of Plano, 1520 K Avenue, Suite 300, Plano, TX 75074.	Department of Engineering, 1520 K Avenue, Suite 250, Plano, TX 75074.	Jul. 17, 2020 ..	480140
Denton, (FEMA Docket, No.: B–2023).	City of Denton, (19–06–2271P).	The Honorable Chris Watts, Mayor, City of Denton, 215 East McKinney Street, Denton, TX 76201.	Engineering Department, 901–A Texas Street, Denton, TX 76209.	Jul. 17, 2020 ..	480194
Kaufman, (FEMA Docket, No.: B–2023).	City of Crandall, (19–06–3605P).	The Honorable Danny Kirbie, Mayor, City of Crandall, P.O. Box 277, Crandall, TX 75114.	City Hall, 110 South Main Street, Crandall, TX 75114.	Jul. 10, 2020 ..	480409
Kaufman, (FEMA Docket, No.: B–2023).	Unincorporated areas of Kaufman County, (19–06–3605P).	The Honorable Hal Richards, Kaufman County Judge, 100 West Mulberry Street, Kaufman, TX 75142.	Kaufman County Development Services Department, 106 West Grove Street, Kaufman, TX 75142.	Jul. 10, 2020 ..	480411
Kaufman, (FEMA Docket, No.: B–2023).	Unincorporated areas of Kaufman County, (19–06–0329P).	The Honorable Hal Richards, Kaufman County Judge, 100 West Mulberry Street, Kaufman, TX 75142.	Kaufman County Development Services Department, 106 West Grove Street, Kaufman, TX 75142.	Jul. 6, 2020	480411
Kendall, (FEMA Docket, No.: B–2034).	Unincorporated areas of Kendall County, (19–06–2757P).	The Honorable Darrel L. Lux, Kendall County Judge, 201 East San Antonio Avenue, Suite 122, Boerne, TX 78006.	Kendall County Engineering Department, 201 East San Antonio Avenue, Suite 122, Boerne, TX 78001.	Jul. 13, 2020 ..	480417
Kerr, (FEMA Docket, No.: B–2034).	Unincorporated areas of Kerr County, (19–06–2757P).	The Honorable Rob Kelly, Kerr County Judge, 700 East Main Street, Kerrville, TX 78028.	Kerr County Engineering Department, 3766 State Highway 27, Kerrville, TX 78028.	Jul. 13, 2020 ..	480419
McLennan, (FEMA Docket, No.: B–2034).	City of Lacy Lakeview, (20–06–0788P).	The Honorable Sharon Clark, Mayor, City of Lacy Lakeview, 501 East Craven Avenue, Lacy Lakeview, TX 76705.	City Hall, 501 East Craven Avenue, Lacy Lakeview, TX 76705.	Jul. 20, 2020 ..	480927
McLennan, (FEMA Docket, No.: B–2034).	Unincorporated areas of McLennan County, (20–06–0788P).	The Honorable Scott M. Felton, McLennan County Judge, 501 Washington Avenue, Suite 214, Waco, TX 76701.	McLennan County Engineering and Mapping Department, 215 North 5th Street, Suite 130, Waco, TX 76701.	Jul. 20, 2020 ..	480456
Tarrant, (FEMA Docket, No.: B–2034).	City of Grapevine, (19–06–2895P).	The Honorable William D. Tate, Mayor, City of Grapevine, P.O. Box 95104, Grapevine, TX 76099.	City Hall, 200 South Main Street, Grapevine, TX 76099.	Jul. 20, 2020 ..	480598
Tarrant, (FEMA Docket, No.: B–2023).	City of Hurst, (18–06–4025P).	The Honorable Henry Wilson, Mayor, City of Hurst, 1505 Precinct Line Road, Hurst, TX 76054.	Public Works Department, 1505 Precinct Line Road, Hurst, TX 76054.	Jul. 6, 2020	480601
Tarrant, (FEMA Docket, No.: B–2023).	City of Richland Hills, (18–06–4025P).	The Honorable Edward Lopez, Mayor, City of Richland Hills, 3200 Diana Drive, Richland Hills, TX 76118.	City Hall, 3200 Diana Drive, Richland Hills, TX 76118.	Jul. 6, 2020	480608
Tarrant, (FEMA Docket, No.: B–2034).	Town of Flower Mound, (19–06–2895P).	The Honorable Steve Dixon, Mayor, Town of Flower Mound, 2121 Cross Timbers Road, Flower Mound, TX 75028.	Town Hall, 2121 Cross Timbers Road, Flower Mound, TX 75028.	Jul. 20, 2020 ..	480777
Travis, (FEMA Docket, No.: B–2023).	Unincorporated areas of Travis County, (19–06–2941P).	The Honorable Sarah Eckhardt, Travis County Judge, P.O. Box 1748, Austin, TX 78767.	Travis County Transportation and Natural Resources Department, 700 Lavaca Street, 5th Floor, Austin, TX 78701.	Jul. 13, 2020 ..	481026
Utah: Washington, (FEMA Docket, No.: B–2023)	City of St. George, (20–08–0005P).	The Honorable Jonathon T. Pike, Mayor, City of St. George, 175 East 200 North, St. George, UT 84770.	City Hall, 175 East 200 North, St. George, UT 84770.	Jul. 1, 2020	490177
Wyoming:					
Laramie, (FEMA Docket, No.: B–2034).	City of Cheyenne, (19–08–0688P).	The Honorable Marian J. Orr, Mayor, City of Cheyenne, 2101 O'Neil Avenue, Cheyenne, WY 82001.	Planning and Development Department, 2101 O'Neil Avenue, Cheyenne, WY 82001.	Jul. 8 2020	560030
Laramie, (FEMA Docket, No.: B–2034).	Unincorporated areas of Laramie County, (19–08–0688P).	The Honorable Gunnar Malm, Chairman, Laramie County Board of Commissioners, 310 West 19th Street, Suite 300, Cheyenne, WY 82001.	Laramie County Public Works Department, 13797 Prairie Center Circle, Cheyenne, WY 82001.	Jul. 8 2020	560029

[FR Doc. 2020–18422 Filed 8–20–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002; Internal Agency Docket No. FEMA–B–2052]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Homeland Security (DHS).

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arizona: Yavapai.	Unincorporated areas of Yavapai County, (20-09-0368P).	Mr. Craig L. Brown, Chairman, Yavapai County Flood Control, District Board of Directors, 1015 Fair Street, Prescott, AZ 86305.	Yavapai County Development Services Department, 1120 Commerce Drive, Prescott, AZ 86305.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 30, 2020	040093
Colorado:						
Adams.	City of Westminster, (19–08–0665P).	The Honorable Herb Atchison, Mayor, City of Westminster, 4880 West 92nd Avenue, Westminster, CO 80031.	City Hall, 4880 West 92nd Avenue, Westminster, CO 80031.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 27, 2020	080008

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Adams.	Unincorporated areas of Adams County, (19–08–0665P).	The Honorable Emma Pinter, Chair, Adams County Board of Commissioners, 4430 South Adams County Parkway, 5th Floor, Suite C5000A, Brighton, CO 80601.	Adams County Development Services Department, Engineering Division, 4430 South Adams County Parkway, 1st Floor, Suite W2000, Brighton, CO 80601.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 27, 2020	080001
Arapahoe.	City of Littleton (20–08–0155P).	The Honorable Jerry Valdes, Mayor, City of Littleton, 2255 West Berry Avenue, Littleton, CO 80120.	City Hall, 2255 West Berry Avenue, Littleton, CO 80120.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 6, 2020 ..	080017
Arapahoe.	Town of Columbine Valley, (20–08–0155P).	The Honorable Roy Palmer, Mayor, Town of Columbine Valley, 2 Middlefield Road, Columbine Valley, CO 80123.	Town Hall, 5931 South Middlefield Road, Columbine Valley, CO 80123.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 6, 2020 ..	080014
Florida:						
Gulf.	Unincorporated areas of Gulf County, (20–04–1556P).	Mr. Michael Hammond, Gulf County Administrator, 1000 Cecil G. Costin, Sr. Boulevard, Room 302, Port St. Joe, FL 32456.	Gulf County Planning and Development Department, 1000 Cecil G. Costin Sr. Boulevard, Room 303, Port St. Joe, FL 32456.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 30, 2020	120098
Lee.	City of Sanibel, (20–04–2943P).	The Honorable Kevin Ruane, Mayor, City of Sanibel, 800 Dunlop Road, Sanibel, FL 33957.	Community Services Department, 800 Dunlop Road, Sanibel, FL 33957.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 13, 2020	120402
Pasco.	Unincorporated areas of Pasco County, (20–04–0554P).	The Honorable Mike Moore, Chairman, Pasco County Board of Commissioners, 8731 Citizens Drive, New Port Richey, FL 34654.	Pasco County Administration Building, 8731 Citizens Drive, New Port Richey, FL 34654.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 27, 2020	120230
Sarasota.	City of Sarasota, (20–04–2373P).	The Honorable Jennifer Ahearn-Koch, Mayor, City of Sarasota, 1565 1st Street, Room 101, Sarasota, FL 34236.	Development Services Department, 1565 1st Street, Sarasota, FL 34236.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 23, 2020	125150
Maine:						
Washington.	City of Calais (20–01–0624P).	The Honorable Billy Howard, Mayor, City of Calais, P.O. Box 413, Calais, ME 04619.	City Hall, 11 Church Street, Calais, ME 04619.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 22, 2020	230134
Washington.	Town of Dennysville, (20–01–0179P)	The Honorable Dawn Noonan, Chair, Town of Dennysville Board of Selectmen, P.O. Box 70, Dennysville, ME 04628.	Town Hall, 2 Main Street, Dennysville, ME 04628.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 15, 2020	230312
Washington.	Town of Northfield, (20–01–0667P).	The Honorable Glen Morgan, Chairman, Town of Northfield Board of Selectmen, 1940 Northfield Road, Northfield, ME 04654.	Town Hall, 1940 Northfield Road, Northfield, ME 04654.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 22, 2020	230318
Washington.	Town of Pembroke, (20–01–0179P).	The Honorable Milan Jamieson, Chairman, Town of Pembroke, Board of Selectmen, P.O. Box 247, Pembroke, ME 04666.	Town Hall, 48 Old County Road, Pembroke, ME 04666.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 15, 2020	230143
Washington.	Town of Perry, (20–01–0179P).	The Honorable Ann Bellefleur, Chair, Town of Perry Board of Selectmen, P.O. Box 430, Perry, ME 04667.	Town Hall, 898 U.S. Route 1, Perry, ME 04667.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 15, 2020	230319
Washington.	Town of Robbinston, (20–01–0179P).	The Honorable Tom Moholland, Chairman, Town of Robbinston Board of Selectmen, 986 Ridge Road, Robbinston, ME 04671.	Town Hall, 986 Ridge Road, Robbinston, ME 04671.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 15, 2020	230321
Washington.	Town of Robbinston, (20–01–0624P).	The Honorable Tom Moholland, Chairman, Town of Robbinston Board of Selectmen, 986 Ridge Road, Robbinston, ME 04671.	Town Hall, 986 Ridge Road, Robbinston, ME 04671.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 22, 2020	230321
Washington.	Town of Wesley, (20–01–0667P).	The Honorable Glen Durling, Chairman, Town of Wesley Board of Selectmen, 2 Whining Pines Drive, Wesley, ME 04686.	Town Hall, 2 Whining Pines Drive, Wesley, ME 04686.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 22, 2020	230327
Massachusetts: Nantucket.	Town of Nantucket, (20–01–0466P).	The Honorable Dawn E. Hill Holdgate, Chair, Town of Nantucket Board of Selectmen, 16 Broad Street, Nantucket, MA 02554.	Planning and Land Use Services Department, 2 Fairgrounds Road, Nantucket, MA 02554.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 27, 2020	250230
Mississippi: DeSoto.	Unincorporated areas of DeSoto County, (19–04–3965P).	The Honorable Jessie Medlin, President, DeSoto County Board of Supervisors, 365 Losher Street, Suite 300, Hernando, MS 38632.	DeSoto County Planning and Building Department, 365 Losher Street, Suite 200, Hernando, MS 38632.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 16, 2020	280050
Oklahoma: Tulsa.	City of Tulsa, (20–06–0535P).	The Honorable G.T. Bynum, Mayor, City of Tulsa, 175 East 2nd Street, Tulsa, OK 74103.	Engineering Services Department, 2317 South Jackson Avenue, Suite S–310, Tulsa, OK 74107.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 30, 2020	405381

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Texas:						
Collin.	City of Celina, (20–06–0459P).	The Honorable Sean Terry, Mayor, City of Celina, 142 North Ohio Street, Celina, TX 75009.	City Hall, 142 North Ohio Street, Celina, TX 75009.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 16, 2020	480133
Collin.	City of Lucas, (20–06–0100P).	Ms. Joni Clarke, Manager, City of Lucas, 665 Country Club Road, Lucas, TX 75002.	Public Works and Engineering Department, 665 Country Club Road, Lucas, TX 75002.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 23, 2020	481545
Denton.	City of Aubrey, (20–06–0957P).	The Honorable Janet Meyers, Mayor, City of Aubrey, 107 South Main Street, Aubrey, TX 76227.	Denton County GIS Department, 701 Kimberly Drive, Suite A285, Denton, TX 76208.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 18, 2020	480776
Johnson.	City of Burleson, (19–06–3252P).	The Honorable Ken Shetter, Mayor, City of Burleson, 141 West Renfro Street, Burleson, TX 76028.	City Hall, 141 West Renfro Street, Burleson, TX 76028.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 23, 2020	485459
Montgomery, .	City of Conroe, (19–06–2853P).	The Honorable Toby Powell, Mayor, City of Conroe, P.O. Box 3066, Conroe, TX 77305.	City Hall, 300 West Davis Street, Conroe, TX 77301.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 12, 2020	480484
Tarrant.	City of Mansfield, (20–06–0705P).	Mr. Clayton Chandler, Manager, City of Mansfield, 1200 East Broad Street, Mansfield, TX 76063.	Geographic Information Systems (GIS) Department, 1200 East Broad Street, Mansfield, TX 76063.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 9, 2020 ..	480606
Utah: Grand.	Unincorporated areas of Grand County, (20–08–0298P).	The Honorable Mary McGann, Chair, Grand County Council, 125 East Center Street, Moab, UT 84532.	Grand County Courthouse, 125 East Center Street, Moab, UT 84532.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 13, 2020	490232
Virginia:						
Independent City.	City of Fairfax, (20–03–0228P).	Mr. Robert A. Stalzer, Manager, City of Fairfax, 10455 Armstrong Street, Room 316, Fairfax, VA 22030.	Public Works Department, 10455 Armstrong Street, Fairfax, VA 22030.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 16, 2020	515524
Prince William.	Unincorporated areas of Prince William County, (20–03–0070P).	Mr. Christopher E. Martino, Prince William County Executive, 1 County Complex Court, Prince William, VA 22192.	Prince William County Department of Public Works, 5 County Complex Court, Prince William, VA 22192.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 3, 2020 ..	510119

[FR Doc. 2020–18415 Filed 8–20–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002; Internal Agency Docket No. FEMA–B–2048]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before November 19, 2020.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2048, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the

floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf*.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Dyer County, Tennessee and Incorporated Areas Project: 18–04–0035S Preliminary Date: September 26, 2019	
City of Dyersburg	City Hall, 425 West Court Street, Dyersburg, TN 38024.
Unincorporated Areas of Dyer County	Dyer County Building and Zoning, 1910 Pioneer Road, Dyersburg, TN 38024.
Orange County, Texas and Incorporated Areas Project: 15–06–1153S Preliminary Date: March 31, 2020	
City of Bridge City	City Hall, 260 Rachal Avenue, Bridge City, TX 77611.
City of Orange	Planning and Community Development, 303 North 8th Street, Orange, TX 77630.
City of Pine Forest	Pine Forest City Hall, 305 Nagel Street, Vidor, TX 77662.
City of Pinehurst	Pinehurst City Hall and Municipal Court, 2497 Martin Luther King Jr. Drive, Orange, TX 77630.
City of Rose City	City Hall, 370 South Rose City Drive, Rose City, TX 77662.
City of Vidor	City Hall, 1395 North Main Street, Vidor, TX 77662.
City of West Orange	City Hall, 2700 Western Avenue, West Orange, TX 77630.
Unincorporated Areas of Orange County	Orange County Environmental Health and Code Compliance Department, 11475 FM 1442, Orange, TX 77630.

[FR Doc. 2020–18418 Filed 8–20–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of December 17, 2020, has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Yavapai County, Arizona and Incorporated Areas Docket No.: FEMA–B–1957	
Unincorporated Areas of Yavapai County	Yavapai County Flood Control District Office, 1120 Commerce Drive, Prescott, AZ 86305.
Butler County, Iowa and Incorporated Areas Docket No.: FEMA–B–1933	
City of Allison	City Hall, 410 North Main Street, Allison, IA 50602.
City of Aplington	City Hall, 409 10th Street, Aplington, IA 50604.
City of Aredale	City Hall, 102 East Main Street, Aredale, IA 50605.
City of Bristow	City Hall, 716–A West Street, Bristow, IA 50611.
City of Clarksville	City Hall, Maintenance, 115 West Superior Street, Clarksville, IA 50619.
City of Dumont	City Hall, 625 1st Street, Dumont, IA 50625.
City of Greene	City Hall, 202 West South Street, Greene, IA 50636.
City of New Hartford	City Hall, 503 Packwaukee Street, New Hartford, IA 50660.
City of Parkersburg	City Hall, 608 Highway 57, Parkersburg, IA 50665.
City of Shell Rock	City Hall, 802 North Public Road, Shell Rock, IA 50670.
Unincorporated Areas of Butler County	Butler County Zoning Office, 428 6th Street, Allison, IA 50602.
O'Brien County, Iowa and Incorporated Areas Docket No.: FEMA–B–1945S	
City of Calumet	City Hall, 113 West 2nd Street, Calumet, IA 51009.
City of Hartley	City Hall, 11 South Central Avenue, Hartley, IA 51346.
City of Paullina	City Hall, 127 South Main Street, Paullina, IA 51046.
City of Primghar	City Hall, 160 South Hayes Avenue, Primghar, IA 51245.
City of Sanborn	City Hall, 102 Main Street, Sanborn, IA 51248.
City of Sheldon	City Hall, 416 9th Street, Sheldon, IA 51201.
City of Sutherland	City Hall, 110 Ash Street, Sutherland, IA 51058.
Unincorporated Areas of O'Brien County	O'Brien County Courthouse, 155 South Hayes Avenue, Primghar, IA 51245.
Lafayette County, Wisconsin and Incorporated Areas Docket No.: FEMA–B–1932	
City of Darlington	City Hall, 627 Main Street, Darlington, WI 53530.
City of Shullsburg	City Hall, 190 North Judgement Street, Shullsburg, WI 53586.
Unincorporated Areas of Lafayette County	Lafayette County Courthouse, 626 Main Street, Darlington, WI 53530.
Village of Argyle	Village Hall, 401 East Milwaukee Street, Argyle, WI 53504.
Village of Belmont	Village Hall, 222 South Mound Avenue, Belmont, WI 53510.
Village of Benton	Village Hall, 244 Ridge Avenue, Benton, WI 53803.
Village of Blanchardville	Village Hall, 208 Mason Street, Blanchardville, WI 53516.
Village of Gratiot	Village Hall, 5840 Main Street, Gratiot, WI 53541.
Village of South Wayne	Village Hall, 107 East Center Street, South Wayne, WI 53587.

[FR Doc. 2020–18419 Filed 8–20–20; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Arizona:					
Maricopa (FEMA Docket No.: B–2020).	City of Buckeye (19–09–2206P).	The Honorable Jackie A. Meck, Mayor, City of Buckeye, 530 East Monroe Avenue, Buckeye, AZ 85326.	Engineering Department, 530 East Monroe Avenue, Buckeye, AZ 85326.	Jun. 12, 2020	040039
Maricopa (FEMA Docket No.: B–2020).	City of Goodyear (19–09–2077P).	The Honorable Georgia Lord, Mayor, City of Goodyear, 190 North Litchfield Road, Goodyear, AZ 85338.	Engineering and Development Services, 14455 West Van Buren Street, Suite D101, Goodyear, AZ 85338.	Jun. 26, 2020	040046
Maricopa (FEMA Docket No.: B–2020).	City of Phoenix (20–09–0214P).	The Honorable Kate Gallego, Mayor, City of Phoenix, 200 West Washington Street, Phoenix, AZ 85003.	Street Transportation Department, 200 West Washington Street, 5th Floor, Phoenix, AZ 85003.	Jun. 26, 2020	040051
Maricopa (FEMA Docket No.: B–2015).	Town of Queen Creek (19–09–1906P).	The Honorable Gail Barney, Mayor, Town of Queen Creek, 22358 South Ellsworth Road, Queen Creek, AZ 85142.	Town Hall, 22358 South Ellsworth Road, Queen Creek, AZ 85142.	Jun. 5, 2020 ...	040132
Maricopa (FEMA Docket No.: B–2020).	Unincorporated Areas of Maricopa County (19–09–0546P).	The Honorable Clint L. Hickman, Chairman, Board of Supervisors Maricopa County, 301 West Jefferson Street, 10th Floor Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Jun. 12, 2020	040037
Maricopa (FEMA Docket No.: B–2020).	Unincorporated Areas of Maricopa County (19–09–1186P).	The Honorable Clint L. Hickman, Chairman, Board of Supervisors Maricopa County, 301 West Jefferson Street, 10th Floor Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street Phoenix, AZ 85009.	Jun. 26, 2020	040037

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Maricopa (FEMA Docket No.: B–2020).	Unincorporated Areas of Maricopa County (19–09–2206P).	The Honorable Clint L. Hickman, Chairman, Board of Supervisors Maricopa County, 301 West Jefferson Street, 10th Floor Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Jun. 12, 2020	040037
Pima (FEMA Docket No.: B–2010).	City of Tucson (19–09–1100P).	The Honorable Jonathan Rothschild, Mayor, City of Tucson, 255 West Alameda Street, Tucson, AZ 85701.	Planning and Development Services Public Works Building, 201 North Stone Avenue, Tucson, AZ 85701.	Apr. 21, 2020	040076
Pima (FEMA Docket No.: B–2015).	Town of Marana (20–09–0131P).	The Honorable Ed Honea, Mayor, Town of Marana, 11555 West Civic Center Drive, Marana, AZ 85653.	Engineering Department Marana Municipal Complex, 11555 West Civic Center Drive, Marana, AZ 85653.	Apr. 29, 2020	040118
Pima (FEMA Docket No.: B–2015).	Unincorporated Areas of Pima County (19–09–0046P).	The Honorable Richard Elías, Chairman, Board of Supervisors Pima County, 130 West Congress Street, 11th Floor Tucson, AZ 85701.	Pima County Flood Control District, 201 North Stone Avenue, 9th Floor, Tucson, AZ 85701.	May 27, 2020	040073
Pima (FEMA Docket No.: B–2010).	Unincorporated Areas of Pima County (19–09–1762P).	The Honorable Richard Elías, Chairman, Board of Supervisors Pima County, 130 West Congress Street, 11th Floor Tucson, AZ 85701.	Pima County Flood Control District, 201 North Stone Avenue, 9th Floor, Tucson, AZ 85701.	Apr. 20, 2020	040073
Pima (FEMA Docket No.: B–2010).	Unincorporated Areas of Pima County (19–09–2213P).	The Honorable Richard Elías, Chairman, Board of Supervisors Pima County, 130 West Congress Street, 11th Floor Tucson, AZ 85701.	Pima County Flood Control District, 201 North Stone Avenue, 9th Floor Tucson, AZ 85701.	Apr. 24, 2020	040073
California:					
Lake (FEMA Docket No.: B–2015).	Unincorporated Areas of Lake County (19–09–1042P).	The Honorable Tina Scott, Chair, Board of Supervisors Lake County, 255 North Forbes Street, Lakeport, CA 95453.	Lake County Department of Public Works, 255 North Forbes Street, Room 309, Lakeport, CA 95453.	Jun. 8, 2020 ...	060090
Los Angeles (FEMA Docket No.: B–2002).	City of Santa Clarita (19–09–0909P).	The Honorable Marsha McLean, Mayor, City of Santa Clarita City Hall 23920 Valencia Boulevard, Suite 300, Santa Clarita, CA 91355.	City Hall Planning Department, 23920 Valencia Boulevard, Suite 300, Santa Clarita, CA 91355.	Apr. 6, 2020 ...	060729
Nevada (FEMA Docket No.: B–2002).	Unincorporated Areas of Nevada County (19–09–0859P).	The Honorable Richard Anderson, Chairman, Board of Supervisors Nevada County, 950 Maidu Avenue, Nevada City, CA 95959.	Nevada County Eric W. Rood Administrative Center, 950 Maidu Avenue, Nevada City, CA 95959.	Apr. 6, 2020 ...	060210
Riverside (FEMA Docket No.: B–2002).	City of Lake Elsinore (19–09–1886P).	The Honorable Steve Manos, Mayor, City of Lake Elsinore City Hall, 130 South Main Street, Lake Elsinore, CA 92530.	Engineering Department, 130 South Main Street, Lake Elsinore, CA 92530.	Apr. 7, 2020 ...	060636
Riverside (FEMA Docket No.: B–2015).	Unincorporated Areas of Riverside County (19–09–0463P).	The Honorable Kevin Jeffries, Chairman, Board of Supervisors Riverside County, 4080 Lemon Street, 5th Floor, Riverside, CA 92501.	Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	Jun. 8, 2020 ...	060245
Riverside (FEMA Docket No.: B–2002).	Unincorporated Areas of Riverside County (19–09–1886P).	The Honorable Kevin Jeffries, Chairman, Board of Supervisors Riverside County, 4080 Lemon Street, 5th Floor, Riverside, CA 92501.	Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	Apr. 7, 2020 ...	060245
Sacramento (FEMA Docket No.: B–2002).	City of Elk Grove (19–09–0908P).	The Honorable Steve Ly, Mayor, City of Elk Grove City Hall, 8401 Laguna Palms Way, Elk Grove, CA 95758.	Public Works Department, 8401 Laguna Palms Way, Elk Grove, CA 95758.	Mar. 12, 2020	060767
Sacramento (FEMA Docket No.: B–2002).	Unincorporated Areas of Sacramento County (18–09–1752P).	The Honorable Patrick Kennedy, Chairman, Board of Supervisors Sacramento County, 700 H Street, Suite 2450, Sacramento, CA 95814.	Sacramento County Department of Water Resources, 827 7th Street, Suite 301, Sacramento, CA 95814.	Mar. 23, 2020	060262
San Bernardino (FEMA Docket No.: B–2015).	City of Colton (19–09–1360P).	The Honorable Frank J. Navarro, Mayor, City of Colton, 650 North La Cadena Drive, Colton, CA 92324.	Public Works Department, 160 South 10th Street, Colton, CA 92324.	May 1, 2020 ...	060273
San Bernardino (FEMA Docket No.: B–2015).	Unincorporated Areas of San Bernardino County (19–09–1360P).	The Honorable Curt Hagman, Chairman, Board of Supervisors San Bernardino County, 385 North Arrowhead Avenue, 5th Floor, San Bernardino, CA 92415.	San Bernardino County Public Works Water Resources Department, 825 East 3rd Street, San Bernardino, CA 92415.	May 1, 2020 ...	060270
San Diego (FEMA Docket No.: B–2002).	City of National City (19–09–0359P).	The Honorable Alejandra Sotelo-Solis, Mayor, City of National City, 1243 National City Boulevard, National City, CA 91950.	City Hall, 1243 National City Boulevard, National City, CA 91950.	Apr. 6, 2020 ...	060293

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
San Diego (FEMA Docket No.: B–2020).	City of San Diego (19–09–1533P).	The Honorable Kevin L. Faulconer, Mayor, City of San Diego, 202 C Street, 11th Floor, San Diego, CA 92101.	Development Services Department, 1222 1st Avenue, MS 301, San Diego, CA 92101.	Jun. 22, 2020	060295
San Diego (FEMA Docket No.: B–2020).	City of Vista (19–09–1368P).	The Honorable Judy Ritter, Mayor, City of Vista, 200 Civic Center Drive, Vista, CA 92084.	City Hall, 200 Civic Center Drive, Vista, CA 92084.	Jun. 17, 2020	060297
San Luis Obispo (FEMA Docket No.: B–2010).	City of Morro Bay (18–09–0960P).	The Honorable John Headding, Mayor, City of Morro Bay, 595 Harbor Street, Morro Bay, CA 93442.	City Hall, 595 Harbor Street, Morro Bay, CA 93442.	Apr. 21, 2020	060307
Santa Clara (FEMA Docket No.: B–2015).	City of San Jose (19–09–1592P).	The Honorable Sam Liccardo, Mayor, City of San Jose, 200 East Santa Clara Street, 18th Floor San Jose, CA 95113.	Department of Public Works, 200 East Santa Clara Street Tower, 5th Floor, San Jose, CA 95113.	Jun. 1, 2020 ...	060349
Shasta (FEMA Docket No.: B–2010).	City of Redding (19–09–0032P).	The Honorable Julie Winter, Mayor, City of Redding, 777 Cypress Avenue, 3rd Floor, Redding, CA 96001.	Permit Center Division, 777 Cypress Avenue, 1st Floor, Redding, CA 96001.	Apr. 9, 2020 ...	060360
Shasta (FEMA Docket No.: B–2010).	Unincorporated Areas of Shasta County (19–09–0032P).	The Honorable Leonard Moty, Chairman, Board of Supervisors Shasta County, 1450 Court Street, Suite 308B, Redding, CA 96001.	Shasta County Public Works Department, 1855 Placer Street, Redding, CA 96001.	Apr. 9, 2020 ...	060358
Sonoma (FEMA Docket No.: B–2020).	City of Healdsburg (19–09–2240P).	The Honorable Leah Gold, Mayor, City of Healdsburg, 401 Grove Street, Healdsburg, CA 95448.	Public Works Department, 401 Grove Street, Healdsburg, CA 95448.	Jun. 19, 2020	060378
Sonoma (FEMA Docket No.: B–2015).	Town of Windsor (19–09–0487P).	The Honorable Dominic Foppoli, Mayor, Town of Windsor, 9291 Old Redwood Highway, Building 400, Windsor, CA 95492.	Building Department, 9291 Old Redwood Highway, Windsor, CA 95492.	Apr. 17, 2020	060761
Florida:					
St. Johns (FEMA Docket No.: B–2015).	Unincorporated Areas of St. Johns County (18–04–6491P).	The Honorable Jeb S. Smith, Chair, St. Johns County Board of Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Permit Center, 4040 Lewis Speedway, St. Augustine, FL 32084.	Jun. 11, 2020	125147
St. Johns (FEMA Docket No.: B–2002).	Unincorporated Areas of St. Johns County (19–04–4728P).	The Honorable Jeb S. Smith, Chair, St. Johns County Board of Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Permit Center, 4040 Lewis Speedway, St. Augustine, FL 32084.	Apr. 8, 2020 ...	125147
St. Johns (FEMA Docket No.: B–2020).	Unincorporated Areas of St. Johns County (19–04–4794P).	The Honorable Jeb S. Smith, Chair, St. Johns County Board of Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Permit Center, 4040 Lewis Speedway, St. Augustine, FL 32084.	Jun. 25, 2020	125147
St. Johns (FEMA Docket No.: B–2002).	Unincorporated Areas of St. Johns County (19–04–4958P).	The Honorable Jeb S. Smith, Chair, St. Johns County Board of Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Permit Center, 4040 Lewis Speedway, St. Augustine, FL 32084.	Apr. 7, 2020 ...	125147
St. Johns (FEMA Docket No.: B–2010).	Unincorporated Areas of St. Johns County (19–04–5378P).	The Honorable Jeb S. Smith, Chair, St. Johns County Board of Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Permit Center, 4040 Lewis Speedway, St. Augustine, FL 32084.	May 5, 2020 ...	125147
Hawaii:					
Maui (FEMA Docket No.: B–2002).	Maui County (19–09–1599P).	The Honorable Michael P. Victorino, Mayor, County of Maui, 200 South High Street, Kalana O Maui Building 9th Floor, Wailuku, HI 96793.	County of Maui Planning Department, One Main Plaza, 2200 Main Street, Suite 315, Wailuku, HI 96793.	Apr. 6, 2020 ...	150003
Maui (FEMA Docket No.: B–2020).	Maui County (19–09–1600P).	The Honorable Michael P. Victorino, Mayor, County of Maui, 200 South High Street, Kalana O Maui Building, 9th Floor, Wailuku, HI 96793.	County of Maui Planning Department, One Main Plaza, 2200 Main Street, Suite 315, Wailuku, HI 96793.	Jun. 22, 2020	150003
Idaho:					
Ada (FEMA Docket No.: B–2002).	City of Boise (19–10–0196P).	The Honorable David Bieter, Mayor, City of Boise, P.O. Box 500, Boise, ID 83702.	City Hall, 150 North Capitol Boulevard, Boise, ID 83702.	Apr. 3, 2020 ...	160002
Ada (FEMA Docket No.: B–2020).	Unincorporated Areas of Ada County (20–10–0034P).	The Honorable Kendra Kenyon, Chair of the Board District 3 Commissioner Ada County Courthouse, 200 West Front Street, 3rd Floor, Boise, ID 83702.	Ada County Courthouse, 200 West Front Street, Boise, ID 83702.	Jun. 19, 2020	160001

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Blaine (FEMA Docket No.: B–2015).	City of Bellevue (19–10–1086P).	The Honorable Ned Burns, Mayor, City of Bellevue City Hall, 115 Pine Street, Bellevue, ID 83313.	City Hall, 115 Pine Street, Bellevue, ID 83313.	May 28, 2020	160021
Blaine (FEMA Docket No.: B–2002).	Unincorporated Areas of Blaine County (19–10–0919P).	The Honorable Jacob Greenberg, Chairman, Blaine County Commissioners, Blaine County Annex Building, 219 South 1st Avenue, Suite 300, Hailey, ID 83333.	Blaine County Planning & Zoning, 219 South 1st Avenue, Suite 208, Hailey, ID 83333.	Apr. 9, 2020	165167
Blaine (FEMA Docket No.: B–2015).	Unincorporated Areas of Blaine County (19–10–1086P).	The Honorable Jacob Greenberg, Chairman, Blaine County Commissioners, Blaine County Annex Building, 219 South 1st Avenue, Suite 300, Hailey, ID 83333.	Blaine County Planning & Zoning, 219 South 1st Avenue, Suite 208, Hailey, ID 83333.	May 28, 2020	165167
Illinois:					
DuPage (FEMA Docket No.: B–2015).	City of Warrenville (20–05–1148P).	The Honorable David L. Brummel, Mayor, City of Warrenville, 28W701 Stafford Place, Warrenville, IL 60555.	City Hall, 28W701 Stafford Place, Warrenville, IL 60555.	Jun. 10, 2020	170218
DuPage (FEMA Docket No.: B–2002).	Village of Carol Stream (19–05–1848P).	The Honorable Frank Saverino, Mayor, Village of Carol Stream, 500 North Gary Avenue, Carol Stream, IL 60188.	Village Hall, 500 North Gary Avenue, Carol Stream, IL 60188.	Apr. 6, 2020	170202
Lake (FEMA Docket No.: B–2041).	Village of Riverwoods (20-05-1123P).	The Honorable John W. Norris, Mayor, Village of Riverwoods, 300 Portwine Road, Riverwoods, IL 60015.	Village Hall, 300 Portwine Road, Riverwoods, IL 60015.	Jul. 17, 2020	170387
Will (FEMA Docket No.: B–2015).	City of Aurora (20–05–0274P).	The Honorable Richard C. Irvin, Mayor, City of Aurora, 44 East Downer Place, Aurora, IL 60505.	City Hall, 44 East Downer Place Aurora, IL 60505.	Jun. 3, 2020	170320
Will (FEMA Docket No.: B–2024).	City of Naperville (20–05–0194P).	The Honorable Steve Chirico, Mayor, City of Naperville, City Hall, 400 South Eagle Street, Naperville, IL 60540.	City Hall, 400 South Eagle Street, Naperville, IL 60540.	Jul. 6, 2020	170213
Will (FEMA Docket No.: B–2010).	Unincorporated Areas of Will County (19–05–4930P).	The Honorable Lawrence M. Walsh, County Executive, Will County, Will County Office Building, 302 North Chicago Street, Joliet, IL 60432.	Land Use Department, 58 East Clinton Street, Suite 100, Joliet, IL 60432.	Apr. 24, 2020	170695
Will (FEMA Docket No.: B–2010).	Village of Mokena (19–05–4930P).	The Honorable Frank Fleischer, Village President, Village of Mokena, 11004 Carpenter Street, Mokena, IL 60448.	Village Hall, 11004 Carpenter Street, Mokena, IL 60448.	Apr. 24, 2020	170705
Williamson (FEMA Docket No.: B–2024).	City of Marion (20–05–1350P).	The Honorable Mike Absher, Mayor, City of Marion, 1102 Tower Square Plaza, Marion, IL 62959.	City Hall, 1102 Tower Square Plaza, Marion, IL 62959.	Jul. 10, 2020	170719
Indiana:					
Hancock (FEMA Docket No.: B–2010).	Unincorporated Areas of Hancock County (19–05–3686P).	Mr. John Jessup, Commissioner, Hancock County, 111 South American Legion Place, Suite 219, Greenfield, IN 46140.	Hancock County Government Building, 111 South American Legion Place, Greenfield, IN 46140.	Apr. 24, 2020	180419
Marion (FEMA Docket No.: B–2002).	City of Indianapolis (20–05–0050X).	The Honorable Joe Hogsett, Mayor, City of Indianapolis, 2501 City-County Building, 200 East Washington Street, Indianapolis, IN 46204.	City Hall, 1200 Madison Avenue, Suite 100, Indianapolis, IN 46225.	Apr. 8, 2020	180159
Marion (FEMA Docket No.: B–2010).	City of Lawrence (19–05–3686P).	The Honorable Steve Collier, Mayor, City of Lawrence, 9001 East 59th Street, Lawrence, IN 46216.	City Hall, 9001 East 59th Street, Lawrence, IN 46216.	Apr. 24, 2020	180160
Marion (FEMA Docket No.: B–2002).	Town of Speedway (20–05–0050X).	Mr. Jacob Blasdel, Town Manager, Town of Speedway, 1450 North Lynhurst Drive, Speedway, IN 46224.	Town Hall, 1450 North Lynhurst Drive, Speedway, IN 46224.	Apr. 8, 2020	180162
Kansas:					
Johnson (FEMA Docket No.: B–2002).	City of Olathe (19–07–0801P).	The Honorable Michael Copeland, Mayor, City of Olathe, 100 East Santa Fe Street, Olathe, KS 66051.	City Hall, 100 East Sante Fe Street, Olathe, KS 66051.	Apr. 9, 2020	200173
Leavenworth (FEMA Docket No.: B–2010).	Unincorporated Areas of Leavenworth County (19–07–1449P).	The Honorable Doug Smith, Chairman, Board of Leavenworth County Commissioners, County Courthouse, 300 Walnut Street, Suite 225, Leavenworth, KS 66048.	Leavenworth County Courthouse, 300 Walnut Street, Leavenworth, KS 66048.	May 8, 2020	200186
Michigan:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Macomb (FEMA Docket No.: B–2002).	Township of Macomb (19–05–3918P).	The Honorable Janet Dunn, Supervisor, Township of Macomb, 54111 Broughton Road, Macomb, MI 48042.	Township Hall, 54111 Broughton Road, Macomb, MI 48042.	Apr. 1, 2020 ...	260445
Minnesota:					
Olmsted (FEMA Docket No.: B–2020).	City of Rochester (19–05–2402P).	The Honorable Kim Norton, Mayor, City of Rochester City Hall, 201 4th Street Southeast, Room 281, Rochester, MN 55904.	City Hall, 201 4th Street Southeast, Rochester, MN 55904.	Jun. 18, 2020	275246
Olmsted (FEMA Docket No.: B–2020).	Unincorporated Areas of Olmsted County (19–05–2402P).	Mr. Jim Bier, County Board Chair, Olmsted County Board of Commissioners, 151 4th Street Southeast, Rochester, MN 55904.	Olmsted County Government Center, 151 4th Street Southeast, Rochester, MN 55904.	Jun. 18, 2020	270626
Nevada:					
Carson City (FEMA Docket No.: B–2015).	City of Carson City (19–09–1428P).	The Honorable Robert L. Crowell, Mayor, City of Carson City, City Hall, 201 North Carson City, Suite 2, Carson City, NV 89701.	Building Division Permit Center, 108 East Proctor Street, Carson City, NV 89701.	May 28, 2020	320001
Washoe (FEMA Docket No.: B–2002).	City of Reno (19–09–0823P).	The Honorable Hillary Schieve, Mayor, City of Reno, P.O. Box 1900, Reno, NV 89505.	City Hall, 1 East 1st Street, Reno, NV 89501.	Apr. 7, 2020 ...	320020
Washoe (FEMA Docket No.: B–2010).	City of Reno (19–09–0890P).	The Honorable Hillary Schieve, Mayor, City of Reno, P.O. Box 1900, Reno, NV 89505.	City Hall, 1 East 1st Street, Reno, NV 89501.	Apr. 15, 2020	320020
Washoe (FEMA Docket No.: B–2002).	City of Reno (19–09–1056P).	The Honorable Hillary Schieve, Mayor, City of Reno, P.O. Box 1900, Reno, NV 89505.	City Hall, 1 East 1st Street, Reno, NV 89501.	Apr. 6, 2020 ...	320020
Washoe (FEMA Docket No.: B–2002).	City of Reno (19–09–1298P).	The Honorable Hillary Schieve, Mayor, City of Reno, P.O. Box 1900, Reno, NV 89505.	City Hall, 1 East 1st Street, Reno, NV 89501.	Mar. 12, 2020	320020
Washoe (FEMA Docket No.: B–2002).	Unincorporated Areas of Washoe County (19–09–0823P).	The Honorable Vaughn Hartung, Chairman, Board of Commissioners, Washoe County, 1001 East 9th Street, Building A, Reno, NV 89512.	Washoe County Administration Building, Department of Public Works, 1001 East 9th Street, Reno, NV 89512.	Apr. 7, 2020 ...	320019
Washoe (FEMA Docket No.: B–2002).	Unincorporated Areas of Washoe County (19–09–0887P).	The Honorable Vaughn Hartung, Chairman, Board of Commissioners, Washoe County, 1001 East 9th Street, Building A, Reno, NV 89512.	Washoe County Administration Building, Department of Public Works, 1001 East 9th Street, Reno, NV 89512.	Mar. 31, 2020	320019
Washoe (FEMA Docket No.: B–2002).	Unincorporated Areas of Washoe County (19–09–1056P).	The Honorable Vaughn Hartung, Chairman, Board of Commissioners, Washoe County, 1001 East 9th Street, Building A, Reno, NV 89512.	Washoe County Administration Building, Department of Public Works, 1001 East 9th Street, Reno, NV 89512.	Apr. 6, 2020 ...	320019
Washoe (FEMA Docket No.: B–2002).	Unincorporated Areas of Washoe County (19–09–1298P).	The Honorable Vaughn Hartung, Chairman, Board of Commissioners, Washoe County, 1001 East 9th Street, Building A, Reno, NV 89512.	Washoe County Administration Building, Department of Public Works, 1001 East 9th Street, Reno, NV 89512.	Mar. 12, 2020	320019
New Jersey:					
Essex (FEMA Docket No.: B–2020).	Township of Belleville (20–02–0232P).	The Honorable Michael Melham, Mayor, Township of Belleville, 152 Washington Avenue, Belleville, NJ 07109.	Engineering Office, 152 Washington Avenue, Belleville, NJ 07109.	Jun. 1, 2020 ...	340177
Essex (FEMA Docket No.: B–2020).	Township of Nutley (20–02–0232P).	The Honorable Dr. Joseph Scarpelli, Mayor, Township of Nutley, 1 Kennedy Drive, Nutley, NJ 07110.	Township Hall, 1 Kennedy Drive, Nutley, NJ 07110.	Jun. 1, 2020 ...	340191
New York:					
Onondaga (FEMA Docket No.: B–2010).	Town of Camillus (19–02–0665P).	Ms. Mary Ann Coogan, Supervisor, Town of Camillus, 4600 West Genesee Street, Syracuse, NY 13219.	Town Hall, 4600 West Genesee Street, Syracuse, NY 13219.	Jun. 19, 2020	360570
Ohio:					
Warren (FEMA Docket No.: B–2002).	City of Lebanon (19–05–5135P).	The Honorable Amy Brewer, Mayor, City of Lebanon, City Hall, 50 South Broadway, Lebanon, OH 45036.	City Hall, 50 South Broadway, Lebanon, OH 45036.	Mar. 30, 2020	390557
Texas:					
Dallas (FEMA Docket No.: B–2020).	City of Grand Prairie (19–06–1737P).	The Honorable Ron Jensen, Mayor, City of Grand Prairie, 317 West College Street, Grand Prairie, TX 75050.	City Development Center, 206 West Church Street, Grand Prairie, TX 75050.	Jun. 1, 2020 ...	485472
Dallas (FEMA Docket No.: B–2020).	City of Irving (19–06–1737P).	The Honorable Rick Stopfer, Mayor, City of Irving, 825 West Irving Boulevard, Irving, TX 75060.	Capital Improvement Program Department, 825 West Irving Boulevard, Irving, TX 75060.	Jun. 1, 2020 ...	480180

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Tarrant (FEMA Docket No.: B–2010).	City of Fort Worth (19–06–1628P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, 200 Texas Street, Fort Worth, TX 76102.	May 1, 2020 ...	480596
Tarrant (FEMA Docket No.: B–2015).	City of Fort Worth (19–06–3826P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, 200 Texas Street, Fort Worth, TX 76102.	Jun. 4, 2020 ...	480596
Tarrant (FEMA Docket No.: B–2010).	City of Fort Worth (19–06–4087P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, 200 Texas Street, Fort Worth, TX 76102.	Apr. 17, 2020	480596
Tarrant (FEMA Docket No.: B–2015).	City of Grand Prairie (19–06–3826P).	The Honorable Ron Jensen, Mayor, City of Grand Prairie, 317 West College Street, Grand Prairie, TX 75053.	Community Development Center, 206 West Church Street, Grand Prairie, TX 75050.	Jun. 4, 2020 ...	485472
Washington:					
King (FEMA Docket No.: B–2010).	City of Auburn (19–10–0993P).	The Honorable Nancy Backus, Mayor, City of Auburn, 25 West Main Street, Auburn, WA 98001.	City Hall, 25 West Main Street, Auburn, WA 98001.	Apr. 17, 2020	530073
Wisconsin:					
Waukesha (FEMA Docket No.: B–2015).	Village of Summit (19–05–5478P).	Mr. Jack Riley, Village President, Village of Summit, 37100 Delafield Road, Summit, WI 53066.	Village Hall, 2911 North Dousman Road, Oconomowoc, WI 53066.	Jun. 12, 2020	550663

[FR Doc. 2020–18423 Filed 8–20–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002; Internal Agency Docket No. FEMA–B–2017]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency; DHS.

ACTION: Notice; correction.

SUMMARY: On April 3, 2020, FEMA published in the **Federal Register** a proposed flood hazard determination notice that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 85 FR 19010. The table provided here represents the proposed flood hazard determinations and communities affected for Middlesex County, Virginia, and Incorporated Areas.

DATES: Comments are to be submitted on or before November 19, 2020.

ADDRESSES: The Preliminary Flood Insurance Rate Map (FIRM), and where applicable, the Flood Insurance Study (FIS) report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2017, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) *online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed in the table below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP may only be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The communities affected by the flood hazard determinations are provided in the table below. Any request for reconsideration of the revised flood hazard determinations shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations will also be considered before the FIRM and FIS report are made final.

Correction

In the proposed flood hazard determination notice published at 85 FR 19010 in the April 3, 2020, issue of the

Federal Register, FEMA published a table titled ''Middlesex County, Virginia, and Incorporated Areas''. This table contained inaccurate information as the community map repository for the unincorporated areas of Middlesex County featured in the table.

In this document, FEMA is publishing a table containing the accurate information. The information provided below should be used in lieu of that previously published.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Middlesex County, Virginia and Incorporated Areas	
Project: 19–03–0011S Preliminary Date: September 16, 2019	
Unincorporated Areas of Middlesex County	Middlesex County Department of Planning, 865 General Puller Highway, Saluda, VA 23149.

[FR Doc. 2020–18417 Filed 8–20–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002; Internal Agency Docket No. FEMA–B–2047]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before November 19, 2020.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2047, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables. For

communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Jackson County, Iowa and Incorporated Areas Project: 16–07–2291S Preliminary Dates: August 22, 2018, August 27, 2019 and April 8, 2020	
City of Baldwin	City Hall, 4746 50th Avenue, Baldwin, IA 52207.
City of Bellevue	City Hall, 106 North 3rd Street, Bellevue, IA 52031.
City of La Motte	City Hall, 102 South Main Street, La Motte, IA 52054.
City of Maquoketa	City Hall, 201 East Pleasant Street, Maquoketa, IA 52060.
City of Miles	City Hall, 430 Ferry Road, Miles, IA 52064.
City of Monmouth,	City Hall, 501 North Division Street, Monmouth, IA 52309.
City of Preston	City Hall, 1 West Gillet Street, Preston, IA 52069.
City of Sabula	City Hall, 411 Broad Street, Sabula, IA 52070.
City of Spragueville	City Hall, 127 East Main Street, Spragueville, IA 52074.
City of Springbrook	City Hall, 203 North 12th Street, Springbrook, IA 52075.
City of St. Donatus	City Hall, 114 East 2nd Street, St. Donatus, IA 52071.
Unincorporated Areas of Jackson County	Jackson County Courthouse, 201 West Platt Street, Maquoketa, IA 52060.
Jones County, Iowa and Incorporated Areas Project: 16–07–2309S Preliminary Date: April 7, 2020	
Unincorporated Areas of Jones County	Jones County Engineer's Office, 19501 Highway 64, Anamosa, IA 52205.

[FR Doc. 2020–18416 Filed 8–20–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002; Internal Agency Docket No. FEMA–B–2049]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National

Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arkansas:						
Sebastian.	City of Fort Smith (19–06–3706P).	The Honorable George B. McGill, Mayor, City of Fort Smith, P.O. Box 1908, Fort Smith, AR 72902.	Department of Engineering, 623 Garrison Avenue, Fort Smith, AR 72901.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 14, 2020	055013
Colorado:						
Boulder.	City of Boulder (19–08–0976P).	The Honorable Sam Weaver, Mayor, City of Boulder, 1777 Broadway Street, Boulder, CO 80302.	Central Records Department, 1777 Broadway Street, Boulder, CO 80302.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 30, 2020	080024
Boulder.	Unincorporated areas of Boulder County (19–08–0976P).	The Honorable Deb Gardner, Chair, Boulder County Board of Commissioners, P.O. Box 471, Boulder, CO 80306.	Boulder County Department of Public Works, 1739 Broadway, Suite 300, Boulder, CO 80306.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 30, 2020	080023
Denver.	City and County of Denver (20–08–0456P).	The Honorable Michael B. Hancock, Mayor, City and County of Denver, 1437 North Bannock Street, Room 350, Denver, CO 80202.	Department of Public Works, 201 West Colfax Avenue, Denver, CO 80202.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 23, 2020	080046
Larimer.	Unincorporated areas of Larimer County (20–08–0140P).	The Honorable Steve Johnson, Chairman, Larimer County Board of Commissioners, 200 West Oak Street, Suite 2200, Fort Collins, CO 80521.	Larimer County Engineering Department, 200 West Oak Street, Suite 3000, Fort Collins, CO 80521.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 13, 2020	080101
Connecticut:						
Fairfield.	Town of Westport (19–01–1183P).	The Honorable James Marpe, First Selectman, Town of Westport Board of Selectmen, 110 Myrtle Avenue, Westport, CT 06880.	Planning and Zoning Department, 110 Myrtle Avenue, Westport, CT 06880.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 13, 2020	090019
Florida:						
Collier.	City of Marco Island (20–04–2874P).	Mr. Michael T. McNees, Manager, City of Marco Island, 50 Bald Eagle Drive, Marco Island, FL 34145.	Building Services Department, 50 Bald Eagle Drive, Marco Island, FL 34145.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 9, 2020 ..	120426
Duvall.	City of Jacksonville (20–04–0754P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	Development Services Division, 214 North Hogan Street, Jacksonville, FL 32202.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 10, 2020	120077
Lee.	City of Bonita Springs (19–04–5595P).	The Honorable Peter Simmons, Mayor, City of Bonita Springs, 9101 Bonita Beach Road, Bonita Springs, FL 34135.	Community Development Department, 9220 Bonita Beach Road, Bonita Springs, FL 34135.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 13, 2020	120680
Lee.	Town of Fort Myers Beach (20–04–1546P).	The Honorable Ray Murphy, Mayor, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Community Development Department, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 22, 2020	120673
Lee.	Unincorporated areas of Lee County (19–04–5595P).	Mr. Roger Desjarlais, Manager, Lee County, 2120 Main Street, Fort Myers, FL 33901.	Lee County Building Department, 1500 Monroe Street, Fort Myers, FL 33901.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 13, 2020	125124
Georgia:						
Gwinnett.	Unincorporated areas of Gwinnett County (19–04–6977P).	The Honorable Charlotte J. Nash, Chair, Gwinnett County Board of Commissioners, 751 Langley Drive, Lawrenceville, GA 30046.	Gwinnett County Department of Planning and Development, 446 West Crogan Street, Lawrenceville, GA 30046.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 15, 2020	130322
Richmond.	City of Augusta (19–04–6697P).	The Honorable Hardie Davis, Jr., Mayor, City of Augusta, 535 Telfair Street, Suite 200, Augusta, GA 30901.	Planning and Development Department, 535 Telfair Street, Suite 300, Augusta, GA 30901.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 30, 2020	130158
Maine:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Washington.	Town of Addison (20–01–0671P).	The Honorable Verlan R. Lenfestey Jr., Chairman, Town of Addison Board of Selectmen, P.O. Box 142, Addison, ME 04606.	Town Hall, 334 Water Street, Addison, ME 04606.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 12, 2020	230132
Washington.	Town of Cherryfield (20–01–0670P).	The Honorable Arthur Tatangelo, Chairman, Town of Cherryfield Board of Selectmen, P.O. Box 58, Cherryfield, ME 04622.	Town Hall, 12 Municipal Way, Cherryfield, ME 04622.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 12, 2020	230135
Washington.	Town of Columbia (20–01–0671P).	The Honorable Harry Beal, Jr., Chairman, Town of Columbia Board of Selectmen, 106 Epping Road, Columbia, ME 04623.	Town Hall, 106 Epping Road, Columbia, ME 04623.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 12, 2020	230307
Washington.	Town of Columbia Falls (20–01–0671P).	The Honorable Nancy Bagley, Chair, Town of Columbia Falls Board of Selectmen, P.O. Box 100, Columbia Falls, ME 04623.	Town Hall, 8 Point Street, Columbia Falls, ME 04623.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 12, 2020	230308
Washington.	Town of East Machias (20–01–0668P).	The Honorable Kenneth Davis, Jr., Chairman, Town of East Machias Board of Selectmen, P.O. Box 117, East Machias, ME 04630.	Town Hall, 32 Cutler Road, East Machias, ME 04630.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 12, 2020	230313
Washington.	Town of Harrington (20–01–0671P).	The Honorable Joel Strout, Chairman, Town of Harrington Board of Selectmen, P.O. Box 142, Harrington, ME 04643.	Town Hall, 114 East Main Street, Harrington, ME 04643.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 12, 2020	230314
Washington.	Town of Jonesboro (20–01–0668P).	The Honorable Michael Schoppee, Chairman, Town of Jonesboro Board of Selectmen, P.O. Box 86, Jonesboro, ME 04684.	Town Hall, 23 Station Road, Jonesboro, ME 04684.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 12, 2020	230315
Washington.	Town of Jonesboro (20–01–0671P).	The Honorable Michael Schoppee, Chairman, Town of Jonesboro Board of Selectmen, P.O. Box 86, Jonesboro, ME 04684.	Town Hall, 23 Station Road, Jonesboro, ME 04684.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 12, 2020	230315
Washington.	Town of Marshfield (20–01–0668P).	The Honorable Robert Carter, Chairman, Town of Marshfield Board of Selectmen, 187 Northfield Road, Marshfield, ME 04654.	Town Hall, 187 Northfield Road, Marshfield, ME 04654.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 12, 2020	230316
Washington.	Town of Steuben (20–01–0670P).	The Honorable Larry Pinkham, Chairman, Town of Steuben Board of Selectmen, 294 U.S. Route 1, Steuben, ME 04680.	Town Hall, 294 U.S. Route 1, Steuben, ME 04680.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 12, 2020	230323
Washington.	Town of Whitneyville (20–01–0668P).	The Honorable Nate Perry, Chairman, Town of Whitneyville Board of Selectmen, 42 South Main Street Whitneyville, ME 04654.	Town Hall, 42 South Main Street, Whitneyville, ME 04654.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 12, 2020	230329
Mississippi: Harrison.	City of Long Beach (20–04–3634P).	The Honorable George L. Bass, Mayor, City of Long Beach, 201 Jeff Davis Avenue, Long Beach, MS 39560.	Department of Permits and Zoning, 201 Jeff Davis Avenue, Long Beach, MS 39560.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 13, 2020	285257
New Hampshire: Hillsborough.	City of Manchester (20–01–0142P).	The Honorable Joyce Craig, Mayor, City of Manchester, One City Hall Plaza, Manchester, NH 03101.	City Hall, One City Hall Plaza, Manchester, NH 03101.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 9, 2020	330169
North Carolina: Wayne.	City of Goldsboro (20–04–0269P).	The Honorable Chuck Allen, Mayor, City of Goldsboro, 200 North Center Street, Goldsboro, NC 27530.	City Hall, 200 North Center Street, Goldsboro, NC 27530.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 9, 2020	370255
Wayne.	Unincorporated areas of Wayne County (20–04–0269P).	The Honorable E. Ray Mayo, Chairman, Wayne County Board of Commissioners, 224 East Walnut Street, Goldsboro, NC 27530.	Wayne County Planning Department, 134 North John Street, 3rd Floor, Goldsboro, NC 27530.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 9, 2020	370254
Pennsylvania: Chester.	Township of Easttown (20–03–0073P).	The Honorable James W. Oram, Jr., Chairman, Township of Easttown Board of Supervisors, 566 Beaumont Road, Devon, PA 19333.	Township Hall, 566 Beaumont Road, Devon, PA 19333.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 30, 2020	422600
South Dakota: Custer.	City of Custer (20-08-0443P).	The Honorable Corbin Herman, Mayor, City of Custer, 622 Crook Street, Custer, SD 57730.	Planning and Building Department, 622 Crook Street, Custer, SD 57730.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 22, 2020	460019
Custer.	Unincorporated areas of Custer County (20-08-0443P).	The Honorable Jim Lintz, Chairman, Custer County Board of Commissioners, 420 Mount Rushmore Road, Custer, SD 57730.	Custer County Department of Planning and Economic Development, 420 Mount Rushmore Road, Custer, SD 57730.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 22, 2020	460018
Pennington.	City of Rapid City (20-08-0020P).	The Honorable Steve Allender, Mayor, City of Rapid City, 300 6th Street, Rapid City, SD 57701.	Public Works Department, Engineering Services Division, 300 6th Street, Rapid City, SD 57701.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 19, 2020	465420

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Texas:						
Bell.	City of Nolanville (19–06–1647P).	The Honorable Andy Williams, Mayor, City of Nolanville, 101 North 5th Street, Nolanville, TX 76559.	City Hall, 101 North 5th Street, Nolanville, TX 76559.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 14, 2020	480032
Bexar.	City of Converse (19–06–1746P).	The Honorable Al Suarez, Mayor, City of Converse, 403 South Seguin, Converse, TX 78109.	City Hall, 403 South Seguin, Converse, TX 78109.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 19, 2020	480038
Bexar.	City of San Antonio (19–06–4014P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capital Improvements Department, Storm Water Division, 114 West Commerce Street, 7th Floor, San Antonio, TX 78205.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 26, 2020	480045
Bexar.	City of Universal City (19–06–1746P).	The Honorable John Williams, Mayor, City of Universal City, 2150 Universal City Boulevard, Universal City, TX 78148.	Department of Stormwater, 2150 Universal City Boulevard, Universal City, TX 78148.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 19, 2020	480049
Bexar.	Unincorporated areas of Bexar County (19–06–3557P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 1948 Probandt Street, San Antonio, TX 78214.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 26, 2020	480035
Bexar.	Unincorporated areas of Bexar County (19–06–4014P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 1948 Probandt Street, San Antonio, TX 78214.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 26, 2020	480035
Collin.	City of McKinney (20–06–0689P).	The Honorable George Fuller, Mayor, City of McKinney, P.O. Box 517, McKinney, TX 75070.	Engineering Department, 221 North Tennessee Street, McKinney, TX 75069.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 2, 2020	480135
Fort Bend.	Unincorporated areas of Fort Bend County (20–06–0547P).	The Honorable K.P. George, Fort Bend County Judge, 301 Jackson Street, 4th Floor, Richmond, TX 77469.	Fort Bend County Engineering Department, 301 Jackson Street, 4th Floor, Richmond, TX 77469.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 30, 2020	480228
Tarrant.	City of Colleyville (20–06–1166P).	The Honorable Richard Newton, Mayor, City of Colleyville, 100 Main Street, Colleyville, TX 76034.	City Hall, 100 Main Street, Colleyville, TX 76034.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 12, 2020	480590
Tarrant.	City of Crowley (20–06–0069P).	The Honorable Billy P. Davis, Mayor, City of Crowley, 201 East Main Street, Crowley, TX 76036.	Department of Community Development, 201 East Main Street, Crowley, TX 76036.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 26, 2020	480591
Williamson.	City of Leander (19–06–3344P).	Mr. Rick Beverlin, Manager, City of Leander, 105 North Brushy Street, Leander, TX 78641.	City Hall, 105 North Brushy Street, Leander, TX 78641.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 30, 2020	481536
Williamson.	City of Leander (19–06–3660P).	Mr. Rick Beverlin, Manager, City of Leander, 105 North Brushy Street, Leander, TX 78641.	City Hall, 105 North Brushy Street, Leander, TX 78641.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 30, 2020	481536
Utah:						
Salt Lake.	City of Riverton (20–08–0458P).	The Honorable Trent Staggs, Mayor, City of Riverton, 12830 South Redwood Road, Riverton, UT 84065.	Public Works Department, 12526 South 4150 West, Riverton, UT 84065.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 22, 2020	490104
Summit.	Unincorporated areas of Summit County (19–08–1037P).	The Honorable Doug Clyde, Chairman, Summit County Council, P.O. Box 128, Coalville, UT 84017.	Summit County Government Office, 60 North Main Street, Coalville, UT 84017.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 29, 2020	490134

[FR Doc. 2020–18424 Filed 8–20–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7024–N–37]

30-Day Notice of Proposed Information Collection: FHA-Insured Mortgage Loan Servicing for Performing Loans; MIP Processing, Escrow Administration, Customer Service, Servicing Fees and 235 Loans; OMB Control Number (2502–0583)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* September 21, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and

recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/Start Printed Page 15501PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 21, 2020 at 85 FR 30980.

A. Overview of Information Collection

Title of Information Collection: FHA-Insured Mortgage Loan Servicing for Performing Loans; MIP Processing, Escrow Administration, Customer Services, Servicing Fees and 235 Loans.

OMB Approval Number: 2502–0583.

Type of Request: Extension of currently approved collection.

Form Numbers: None.

Description of the need for the information and proposed use: This information request is a comprehensive collection for mortgagees that service FHA-insured loans and are involved with the collection and payment of mortgage insurance premiums, the processing of loan payments, escrow account administration, providing loan information and customer service to the mortgagor, and assessing post endorsement fees and charges.

Respondents: Business or other for profit and Individuals or households

Estimated Number of Respondents: 340.

Estimated Number of Responses: 73,800.40.

Frequency of Response: 217.06.

Average Hours per Response: 0.20183501.

Total Estimated Burdens: 14,895.50.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information. (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Dated: August 14, 2020.

Anna Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2020–18380 Filed 8–20–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7024–N–35]

30-Day Notice of Proposed Information Collection: Allocation of Operating Fund Grant Under the Operating Fund Formula: Data Collection; OMB Control Number (2577–0029)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* September 21, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/StartPrintedPage15501PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 15, 2020 at 85 FR 29473.

A. Overview of Information Collection

Title of Information Collection: Allocation of Operating Funds under the Operating Fund Formula: Data Collection.

OMB Approval Number: 2577–0029.

Type of Request: Extension of currently approved collections.

Form Number: HUD–52722 and HUD–52723.

Description of the need for the information and proposed use: Public Housing Agencies (PHAs) use this information in budget submissions which are reviewed and approved by HUD field offices as the basis for obligating the operating fund grant. This information is necessary to calculate the eligibility for the operating fund grant under the Operating Funding Program regulations, as amended. The Operating Fund is designed to provide the amount of operating funds needed for well-managed PHAs. PHAs submit the information electronically with these forms.

The following changes occurred in this submission. The form no longer includes blocks 4. Unit Change Indicator and 5. Rate Reduction Incentive. The form includes adjustments to improve the workflow of

the form. Adjustments include changes to formatting and adding Line 19 Total base utilities expense level for respondents to clearly understand where to sum the results of data collected in columns.

HUD collects information for HUD–52723 and HUD–52722 through VBA enhanced Microsoft Excel Tools. In fiscal year 2021, HUD plans to transition to web-based forms HUD–52723 and HUD–52722. HUD planned a phased launch of the web-based collection. Initially the collection by web-based forms is limited to subset PHAs that HUD expands each subsequent year until all PHAs exclusively use the web-based forms. PHAs without access to the web-based forms continue to use the Excel based forms. Web-based forms improves the availability of the forms to PHAs, improves data integrity, and secure transfer of the data from the PHA to HUD.

Total Estimated Burdens:

Information collection	Number of respondents	Frequency of response	Number of responses per respondent	Responses per annum	Total annual burden hours	Hourly cost per response	Annual cost
HUD–52722	7,000	1	7,000	0.75	5,250	$33.34	$175,035
HUD–52723	7,000	1	7,000	0.75	5,250	33.34	175,035
Total	14,000	....	14,000	....	10,500	....	350,070

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) Ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 14, 2020.

Anna Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2020–18383 Filed 8–20–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7028–N–04; OMB Control No. 2577–0218]

60-Day Notice of Proposed Information Collection: Indian Housing Block Grant (IHBG) Competitive Program Annual Performance Report

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* October 20, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Dacia Rogers, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW, (Room 3178), Washington, DC 20410; telephone 202–708–3000, extension 3374, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Rogers.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Indian Housing Block Grant Competitive Annual Performance Report.

OMB Approval Number: 2577–0218.

Type of Request: Revision of a currently approved collection.

Form Numbers: HUD–52737.

Description of the need for the information and proposed use: The purpose of this notice is to solicit public comment on the proposed Annual Performance Report for the Indian Housing Block Grant Competitive program.

In Fiscal Year 2018, Congress enacted H.R. 1625—Consolidated Appropriations Act, 2018 (Pub. L. 115–141) (Effective: 3/23/18) that appropriated $99,000,000 for IHBG Competitive funding (IHBG Competitive) awards under the Native American Housing Assistance and Self Determination Act (NAHASDA) of 1996 (25 U.S.C. 4101 *et seq.*). In Fiscal Year 2019, Congress enacted H.R. 265—Consolidated Appropriations Act, 2019 (Pub. L. 116–6) that appropriated $99,000,000 for competitive grants under NAHASDA. In Fiscal Year 2019,

Congress renewed program funding for an additional $99,000,000 in awards.

The Indian Housing Block Grant Competitive (IHBG Competitive) program gives priority to projects that spur housing construction and rehabilitation from NAHASDA-eligible recipients while considering need and administrative capacity. Additionally, applicants could have applied for other eligible activities under Section 202 of NAHASDA. HUD's Office of Native American Programs (ONAP) is responsible for managing the IHBG Competitive program.

ONAP made IHBG Competitive funds available under a Notice of Funding Availability (NOFA) and awarded the funds to the applicants with the highest rated applications, particularly those with the greatest housing need and administrative capacity. On December 10, 2019, ONAP announced that 54 tribes and tribally designated housing entities would receive nearly $200,000,000 in IHBG Competitive funds.

IHBG Competitive grantees must submit an IHBG Competitive Annual Performance Report (APR) (HUD–52737) that contains all the reporting requirements codified in the NOFA. Grantees must also submit narrative with the APR that address specific performance measures identified in the NOFA. IHBG Competitive APRs are due to HUD within 90 days of end of the grantee's program year and at the end of the period of performance identified in the grant agreement.

Respondents: Native American Tribes, Alaska Native Villages and Corporations, and Tribally Designated Housing Entities.

Estimated Number of Respondents: 54.

Estimated Number of Responses: 54.

Frequency of Response: 1.

Average Hours per Response: 32.

Total Estimated Burdens: 1,728 hours.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response:

Information collection	Number of respondents	*Average number of reponses per respondent	Total annual responses	Burden hours/minutes per response	Total hours
IHBG Competitive APR	54	1	54	32	1,728

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 13, 2020.

Merrie Nichols-Dixon,

Director, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2020–18391 Filed 8–20–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7024–N–36]

30-Day Notice of Proposed Information Collection: FHA-Insured Mortgage Loan Servicing of Payments, Prepayments, Terminations, Assumptions, and Transfers; OMB Control Number (2502–0595)

AGENCY: Office of the Chief Information Officer, Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* September 21, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/StartPrintedPage15501PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 18, 2020 at 85 FR 29738.

A. Overview of Information Collection

Title of Information Collection: FHA-Insured Mortgage Loan Servicing of Payments, Prepayments, Terminations, Assumptions, and Transfers.

OMB Approval Number: 2502–0595.

Type of Request: Revision of currently approved collection.

Form Numbers: HUD–92210.1.

Description of the need for the information and proposed use: FHA insurance is an important source of mortgage credit for low and moderate-income borrowers. It is essential that the Federal Housing Administration (FHA) maintain a healthy mortgage insurance fund through premiums charged to the borrower by FHA. Providing policy and

guidance to the single family housing mortgage industry regarding changes in FHA's program is essential to protect the fund. The information requests referred to in this PRA submission is to provide information to support HUD's policy and guidance.

Respondents: Business or other for profit and Individuals or households.

Estimated Number of Respondents: 182.

Estimated Number of Responses: 15,834.

Frequency of Response: 87.

Average Hours per Response: 1.1249821.

Total Estimated Burdens: 17,813.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Dated: August 14, 2020.

Anna Guido,

Department Report Management Officer, Chief Information Officer.

[FR Doc. 2020–18378 Filed 8–20–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R4–ES–2020–0089; FXES11130400000EA–123–FF04EF1000]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Alabama Beach Mouse, Baldwin County, AL; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment and information.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from SeaGlades at St. Andrew Bay (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally listed Alabama beach mouse incidental to construction of twenty-seven single family homes and amenities in Baldwin County, Alabama. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and the Service's preliminary determination that this HCP qualifies as ''low-effect,'' categorically excluded, under the National Environmental Policy Act. To make this determination, we used our low-effect screening form, which is also available for public review.

DATES: We must receive your written comments on or before September 21, 2020.

ADDRESSES:

Obtaining Documents: You may obtain copies of the documents online in Docket No. FWS–R4–ES–2020–0089 at *http://www.regulations.gov.*

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

• *Online: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R4–ES–2020–0089.

• *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS–R4–ES–2020–0089; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Mr. William Lynn by telephone at (251) 441–5868 or via email at *William_Lynn@fws.gov.* Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service, announce receipt of an application from SeaGlades at St. Andrew Bay (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.)* The applicant requests the ITP to take the federally listed Alabama beach mouse (*Peromyscus polionotus ammobates*) incidental to the construction of 27 single-family homes and amenities (project) in Baldwin County, Alabama. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP) and the Service's preliminary determination that this HCP qualifies as ''low-effect,'' categorically excluded, under the National Environmental Policy Act (NEPA; 42 U.S.C. 4231 *et seq.*) To make this determination, we used our and low-effect screening form, which is also available for public review.

Project

The applicant requests a 50-year ITP to take Alabama beach mice through the conversion of approximately 2.58 acres of occupied Alabama beach mouse habitat incidental to the construction of 27 single-family homes with amenities located on a 10.53-acre parcel in Baldwin County, Alabama. The applicant proposes to minimize and mitigate for take of the Alabama beach mouse through standard minimization, mitigation measures and monitoring onsite population of the species with fall and spring trapping surveys (twice a year) for the next 50 years. Standard mitigation and minimization measures are a reduced footprint of 0.10 acres or less for each lot (27 lots) within the 10.53-acre parcel, creation of an on-site Alabama beach mouse conservation area and a $37,000 monitoring and dune management fund. The applicant also will install fully shielded exterior lighting, tinted windows, native vegetation for landscaping, and driveway materials that will not disperse in a storm surge. There will be refuse control, restoration of habitat after tropical storms, and prohibitions on the use of exterior rodenticides and cats roaming free within the property. The Service would require that the applicant ensure that all funding for the HCP is available upfront and prior to its engaging in activities associated with the project.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made

available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's project, including land clearing, infrastructure building, landscaping, and the proposed minimization and mitigation measures, would individually and cumulatively have a minor or negligible effect on the Alabama beach mouse and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion and the HCP is low effect under our NEPA regulations at 43 CFR 46.205 and 46.210. A low-effect HCP is one that would result in (1) minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) impacts that, when considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not over time result in significant cumulative effects to environmental values or resources over time.

Next Steps

The Service will evaluate the application and the comments received to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(l)(B) of the ESA have been met. If met, the Service will issue ITP number TE63246D–0 to SeaGlades at St. Andrew Bay.

Authority

The Service provides this notice under section 10(c) (16 U.S.C. 1539(c)) of the ESA and NEPA regulation 40 CFR 1506.6.

William Pearson,

Field Supervisor, Alabama Ecological Service Office.

[FR Doc. 2020–18326 Filed 8–20–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

[201D0102DM, DS6CS00000, DLSN00000.000000, DX6CS25]; OMB Control No. 1093–NEW]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Youth Conservation Corps Application and Medical History

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Department of the Interior (DOI) are proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before September 21, 2020.

ADDRESSES: Send your comments and suggestions on the information collection requirements to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to Jeffrey Parrillo, Departmental Information Collection Clearance Officer, 1849 C Street NW, Washington, DC 20240; or by email to *DOI-PRA@ios.doi.gov.* Please reference OMB Control Number 1093–YCC in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Jeffrey Parrillo, Departmental Information Collection Clearance Officer, 1849 C Street NW, Washington, DC 20240; or by email to *DOI-PRA@ios.doi.gov* or by telephone at 202–208–7072. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on January 31, 2020 (85 FR 5691). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: We are requesting review and approval from OMB of a new ICR associated with the Youth Conservation Corps (YCC) application process to comply with the requirements of section 3506(c)(2)(A) of the PRA. The approval of the YCC application and medical history forms is essential to ensuring completion of agencies' conservation work on public lands. Without OMB approval, collection of applications would not begin until well into the hiring season, resulting in delays of critical conservation projects, some of which are necessary to ensure the safety of visitors to public lands.

Under the Youth Conservation Corps Act of August 13, 1970, as amended (U.S. 18701–1706), the U.S. Department of Interior provides seasonal employment for eligible youth 15 through 18 years old. The Youth

Conservation Corps stresses three important objectives:

1. Accomplish needed conservation work on public lands;
2. Provide gainful employment for 15 to 18 year-old males and females from all social, economic, ethnic, and racial backgrounds; and
3. Foster, on the part of the 15 through 18 year-old youth, an understanding and appreciation of the Nation's natural resources and heritage.

Youths seeking training and employment with the Youth Conservation Corps must complete the following new common forms included in this clearance request: DI–4014, ''Youth Conservation Corps Application'' and DI–4015, ''Youth Conservation Corps Medical History.'' The applicants' parents or guardians must sign both forms. The application and medical history forms are evaluated by participating agencies to determine the eligibility of each youth for employment with the Youth Conservation Corps. Potential and actual agencies that may use the common forms included in this collection include:

- U.S. Fish and Wildlife Service (Interior); and,
- National Park Service (Interior); and,
- Other Federal Departments and Agencies.

We collect the following information via common form DI–4014, ''Youth Conservation Corps (YCC) Application'':

- Basic contact information such as name, mailing address, telephone numbers, email address, and parent/guardian contact information;
- Gender;
- Date of birth and age;
- Certification of ability to apply for/provide social security number;
- Citizenship or permanent residency documentation;
- Work permit information;
- Desired work location;
- Where they learned about the program;
- Understanding of the conditions of job/role; and,
- Why they want to enroll in a YCC program.

We collect the following information via common form DI–4015, ''Youth Conservation Corps Medical History'' form to certify the youth's physical fitness to work in the seasonal employment program:

- Contact information;
- Age;
- date of birth;
- gender;
- emergency contact information;
- parent or guardian's contact information and signature;
- Medical insurance information;
- Medical history including vaccination history;
- Previous and current illnesses or conditions that may affect ability to perform certain tasks;
- Primary language;
- Ethnic background (optional);
- Exercise currently undertaken; and,
- Swimming ability.

Title of Collection: Youth Conservation Corps Application and Medical History.

OMB Control Number: 1093–New.

Form Numbers: DI–4014, ''Youth Conservation Corps Application'', and DI–4015, ''Youth Conservation Corps Medical History.''

Type of Review: New.

Respondents/Affected Public: Youth 15 through 18 years old seeking seasonal employment with the above-named agencies through the YCC Program. Please note that if an applicant is under the age of 18; a parent/guardian may respond for the youth.

Total Estimated Number of Annual Respondents: 11,409 (8,599 respondents completing the application forms and 2,810 respondents completing the medical history forms).

Total Estimated Number of Annual Responses: 11,409 (8,599 applications and 2,810 medical history forms).

Estimated Completion Time per Response: 25 minutes for the application form and 14 minutes for the medical history form.

Total Estimated Number of Annual Burden Hours: 4,239 hours (3,583 hours (rounded) for application forms and 656 hours (rounded) for medical history forms).

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Jeffrey Parrillo,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–18328 Filed 8–20–20; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[20XL1109AF LLUTG02000 L12200000.PM0000 241A]

Call for Nominations for the San Rafael Swell Recreation Area Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to request public nominations for two members to the San Rafael Swell Recreation Area Advisory Council (Council).

DATES: A completed nomination form and accompanying nomination/recommendation letters must be received by September 21, 2020.

ADDRESSES: Send nominations to Christopher Conrad, BLM Price Field Manager, 125 South 600 West, Price, Utah 84501, Attention: San Rafael Swell Advisory Council Nominations, or email *cconrad@blm.gov* with the subject line ''San Rafael Swell Advisory Council Nominations.'' The Price Field Office will accept public nominations for 30 days from the date this notice is posted.

FOR FURTHER INFORMATION CONTACT: Christopher Conrad, BLM Price Field Manager; 125 South 600 West, Price, Utah 84501, telephone (435) 636–3637, or email *cconrad@blm.gov.* Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to leave a message or question for the above individual. The FRS is available 24 hours a day, seven days a week. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION: The John D. Dingell, Jr. Conservation, Management, and Recreation Act, Section 1223, directs the Secretary of the Interior to establish a seven-member citizen-based advisory council that is regulated by the Federal Advisory Committee Act (5 U.S.C. Appendix 2) and section 309 of the Federal Land Policy and Management Act. The BLM rules governing advisory committees are found at 43 CFR subpart 1784.

The Council shall advise the Secretary with respect to the preparation and implementation of the management plan for the San Rafael Swell Recreation Area. Congress created the San Rafael Swell Recreation Area to provide for the protection, conservation, and enhancement of the recreational, cultural, natural, scenic, wildlife, ecological, historical, and educational

resources of the area. Council duties and responsibilities are solely advisory in nature.

The Council is seeking nominations in the following categories:

(1) A representative of conservation organizations; and

(2) An elected leader of a federally recognized Tribe that has significant cultural or historical connections to, and expertise in, the landscape, archeological sites, or cultural sites within the County.

Members will be appointed to the Council to serve three-year staggered terms.

Nominating Potential Members: Nomination forms may be obtained from the Price Field Office (address listed above) or at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/Utah.* All nominations must include a completed Resource Advisory Council application (OMB Control No. 1004–0204), letters of reference from the represented interests or organizations, and any other information that speaks to the candidate's qualifications.

The specific category the nominee would be representing should be identified in the letter of nomination and on the application form.

Members of the Council serve without compensation. However, while away from their homes or regular places of business, Council members engaged in Council business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703, in the same manner as persons employed intermittently in Federal Government service.

The Council will meet approximately two to four times annually, and at such other times as designated by the Designated Federal Officer.

Before including your address, phone number, email address, or other personal identifying information in your comment, please be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you may request in your comment to withhold your personal identifying information from public review, the BLM cannot guarantee that it will be able to do so.

Authority: 43 CFR 1784.4–1.

Gregory Sheehan,

State Director.

[FR Doc. 2020–18403 Filed 8–20–20; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK930000.L51010000.FP0000. LVRWL14L0740]

Notice of Availability of the Record of Decision for the Final Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: The Bureau of Land Management (BLM), Alaska State Office, announces the availability of the Record of Decision (ROD) for the Final Environmental Impact Statement (EIS) for the Coastal Plain Oil and Gas Leasing Program. The Secretary for the Department of the Interior's signature on the ROD constitutes the final decision of the Department, thereby completing the required National Environmental Policy Act process for implementing an oil and gas leasing program within the Coastal Plain of the Arctic National Wildlife Refuge.

ADDRESSES: Requests for information regarding the ROD may be mailed to: Coastal Plain Oil and Gas Leasing Program, 222 West 7th Avenue, #13, Anchorage, AK 99513–7504. The ROD is available on the BLM Alaska website at *http://www.blm.gov/alaska.*

FOR FURTHER INFORMATION CONTACT: Nicole Hayes, BLM Alaska State Office, 907–271–4354. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individuals during normal business hours. The FRS is available 24 hours a day, seven days a week, to leave a message or question with the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Title II, Section 20001 of Public Law 115–97 directs the Secretary of the Interior, acting through the BLM, to establish and administer a competitive oil and gas leasing program for the leasing, development, production, and transportation of oil and gas in and from the Coastal Plain. The BLM was directed to manage the oil and gas leasing program on the Coastal Plain in a manner similar to lease sales under the Naval Petroleum Reserves Production Act of 1976 (including regulations). The BLM was also directed to conduct two area-wide lease sales offering not fewer than 400,000 acres, in areas where there is the highest potential for the discovery of hydrocarbons.

The ROD approves a program to carry out this statutory directive. By determining where and under what terms and conditions leasing will occur, the ROD takes into account the requirements of Public Law 115–97 and other applicable law. To inform this Decision, the BLM prepared the Coastal Plain Oil and Gas Leasing Program Environmental Impact Statement (Leasing EIS).

The ROD adopts Alternative B of the Leasing EIS as to where and under what terms and conditions leasing may occur subject to future specific environmental analysis and permitting decisions, except clarifications have been provided for required operating procedures (ROP) 11 and 17, as well as Lease Notice 2. The ROD also does not adopt the interpretive assumptions made in the Leasing EIS as to the implementation of Section 20001(c)(3) of Public Law 115–97. Rather, it provides guidance regarding certain general principles for the future application of that section of the law.

Authority: 40 CFR 1502.9, 40 CFR 1506.6.

Chad B. Padgett,

State Director, Alaska.

[FR Doc. 2020–18431 Filed 8–20–20; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–30753; 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 August 8, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by September 8, 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 August 8, 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:

ARKANSAS

Baxter County

Galatia Church, West side AR 5, north of jct. with Havner Rd., Norfolk vicinity, SG100005579

Craighead County

Bridge Street Bridge, (Historic Bridges of Arkansas MPS), Bridge St. between Johnson and Cate Aves., Jonesboro, MP100005580

Citizens Bank Building, 100 West Washington St., Jonesboro, SG100005581

Fuller-Shannon House, 1408 Twin Oaks Ave., Jonesboro, SG100005582

Faulkner County

Titan II ICBM Launch Complex Site 373–9, (Cold War Resources Associated with the 308th Strategic Missile Wing in Arkansas MPS), 23 Missile Base Rd., Vilonia, MP100005583

Nevada County

Prescott & Northwestern Railroad Caboose No. 3, 403 West 1st St. South, Prescott, SG100005585

Pulaski County

Little Rock Fire Station No. 9, 2023 East 6th St., Little Rock, SG100005587

Presbyterian Village, 510 Brookside Dr., Little Rock, SG100005589

Fair Park Golf Course, 5511 West Markham St., Little Rock, SG100005596

Saline County

International Harvester Servicenter, 1124 Military Rd., Benton, SG100005591

Searcy County

Snowball Gymnasium, Cty. Rd. 12, .1 mile west of Harvest Ln., Snowball, SG100005592

Washington County

Hindman Hall Museum, 14262 West US 62, Prairie Grove, SG100005593

Vernon & Moore-McIlroy Produce Warehouse, 200 North West Ave., Fayetteville, SG100005594

Woolsey Farmstead Cemetery, 535 South Broyles Rd., Fayetteville, SG100005595

FLORIDA

Pasco County

Oelsner Mound Archaeological Site, Address Restricted, Port Richey vicinity, SG100005561

IOWA

Benton County

Preston's Station Historic District, 402 4th Ave., Belle Plaine, SG100005572

Grundy County

Grundy Center High School, 1001 8th St., Grundy Center, SG100005565

Muscatine County

Ijem Avenue Commercial Historic District, Ijem Ave. between Railroad St. and Main St., Nichols, SG100005566

Polk County

Acadian Manor Historic District, 2801–2815 Grand Ave., Des Moines, SG100005567

LOUISIANA

West Baton Rouge Parish, D'Agostino Building, 110 North Jefferson Ave., Port Allen, SG100005598

MISSISSIPPI

Hinds County

Old Terminal Building, Hawkins Field, Airport Dr., Jackson, SG100005578

Jones County

Southside Neighborhood Historic District, Roughly bounded by North Pine and East 5th Sts., North and South Walters, South 4th and South 9th Aves., East Jackson, Limbert, Johnson, and North and South Maple Sts., Laurel, SG100005573

NEVADA

Washoe County

Trinity Episcopal Cathedral, 200 Island Ave., Reno, SG100005599

NEW YORK

Chautauqua County

Forest Heights Historic District, Forest Park, Warner Pl., Terrace Pl., Lilac Ln., McKinley Ave., 70–201 Forest Ave., 10–204 Prather Ave., 32–102 and 39–123 Prospect St., 117–153 South Main St., 6 and 11 Broadhead Ave., 67 Washington St., Jamestown, SG100005570

Orange County

Colden Hill Farm, 181 North Drury Ln., Newburgh vicinity, SG100005568

Queens County

Voelcker, Conrad, House, 149–19 38th Ave., Flushing, SG100005569

OHIO

Cuyahoga County

Eleanor B. Rainey Memorial Institute, 1523 East 55th St., Cleveland, SG100005571

OKLAHOMA

Creek County

House Building, 301–305 North Main St., Bristow, SG100005554

Kay County

Kimbrough Temple C.M.E. Church, 1029 South 12th St., Ponca City, SG100005555

Nickles Machine Shop, 600 South 1st St., Ponca City, SG100005556

Alcorn-Pickrel House, 200 North 10th St., Ponca City, SG100005564

Le Flore County

Old City Hall, Theater and Masonic Lodge, 401 East 1st St., Heavener, SG100005557

Oklahoma County

Heritage Hills East Historic District, Bounded by NW 14th Street, North Broadway Ave., NW 22nd St., and North Robinson Ave., Oklahoma City, SG100005558

Villa Teresa Historic District, 1212, 1216, 1228, and 1300 Classen Dr., Oklahoma City, SG100005559

PENNSYLVANIA

Schuylkill County

Mothers' Memorial, Hoffman Memorial, and Veterans' Memorial, Roughly Hoffman Blvd. from Brock St. to Market St., and between Chestnut St. and Market St. at the north end of 5th St., Ashland, SG100005552

UTAH

Salt Lake County

Murray Downtown Residential Historic District (Boundary Increase), (Murray City, Utah MPS), Roughly bounded by 4600 South, Meadowview Rd., 4800 South, Brown St. Murray, BC100005563

VIRGINIA

Greene County

Long, A.J., Mill, 4147 Simmons Gap Rd., Free Union vicinity, SG100005576

An owner objection has been received for the following resource:

ARKANSAS

Pulaski County

Boy Scouts of America Building, 3220 Cantrell Rd., Little Rock, SG100005600

A request for removal has been made for the following resources:

ARKANSAS

Monroe County

Highway 79 Bridge, (Clarendon MRA), US 79 and White R., Clarendon, OT84000190

Poinsett County

Maxie Theatre, 136 AR 463 South, Trumann, OT10000933

Pulaski County

Matthews, Mary H., Lustron House, 5021 Maryland Ave., Little Rock, OT14000249

A request to move has been received for the following resource:

ALASKA

Matanuska-Susitna Borough

Wasilla Depot, Parks Hwy. and Knik Rd., Wasilla, MV77000218

Additional documentation has been received for the following resources:

ARKANSAS

Pulaski County

Taborian Hall (Additional Documentation), 9th and State Sts., Little Rock, AD82002130

MASSACHUSETTS

Suffolk County

Fairview Cemetery (Additional Documentation), 45 Fairview Ave., Boston, AD09000717

OKLAHOMA

Beaver County

Turpin Grain Elevator (Additional Documentation), (Woodframe Grain Elevators of Oklahoma Panhandle TR), Off US 64, Turpin, AD83002071

Creek County

Sapulpa Downtown Historic District (Additional Documentation), Roughly bounded by Hobson Ave., Elm St., Lee Ave., and Main St., Sapulpa, AD02000975

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.

OKLAHOMA

Pittsburg County

Mine Rescue Station Building (Additional Documentation), 507–509 E 3rd St., McAlester, AD80004290

Authority: Section 60.13 of 36 CFR part 60.

Dated: August 12, 2020.

Sherry A. Frear,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

[FR Doc. 2020–18374 Filed 8–20–20; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–417 and 731–TA–953, 957–959, and 961 (Third Review)]

Carbon and Certain Alloy Steel Wire Rod From Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the countervailing duty order on carbon and certain alloy steel wire rod from Brazil and the antidumping duty orders on carbon and certain alloy steel wire rod from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on June 3, 2019 (84 FR 25564) and determined on September 6, 2019 that it would conduct full reviews (84 FR 50474, September 25, 2019). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on March 12, 2020 (85 FR 14506). In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, and in accordance with 19 U.S.C. 1677c(a)(1), the Commission conducted its hearing on June 16, 2020 by video conference and written witness testimony as set forth in procedures provided to the parties. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on August 17, 2020. The views of the Commission are contained in USITC Publication 5100 (August 2020), entitled *Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago: Investigation Nos. 701–TA–417 and 731–TA–953, 957–959, and 961 (Third Review).*

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

By order of the Commission.

Issued: August 18, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–18390 Filed 8–20–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (BJA) Docket No. 1785]

Meeting of the Public Safety Officer Medal of Valor Review Board

AGENCY: Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA), Justice.

ACTION: Notice of meeting.

SUMMARY: This is an announcement of a meeting of the Public Safety Officer Medal of Valor Review Board, primarily intended to consider nominations for the 2019–2020 Medal of Valor, and to make a limited number of recommendations for submission to the U.S. Attorney General. Additional issues of importance to the Board may also be discussed. The virtual meeting/ conference call date and time is listed below.

DATES: September 23, 2020, 12:30 p.m. to 3 p.m. EDT.

ADDRESSES: This meeting will be held virtually using web conferencing technology. The public may hear the proceedings of this virtual meeting/ conference call by registering with Gregory Joy at last seven (7) days in advance (contact information below).

FOR FURTHER INFORMATION CONTACT: Gregory Joy, Policy Advisor, Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street NW, Washington, DC 20531, by telephone at (202) 514–1369, toll free (866) 859–2687, or by email at *Gregory.joy@usdoj.gov.*

SUPPLEMENTARY INFORMATION: The Public Safety Officer Medal of Valor Review Board carries out those advisory functions specified in 42 U.S.C. 15202. Pursuant to 42 U.S.C. 15201, the President of the United States is authorized to award the Public Safety Officer Medal of Valor, the highest national award for valor by a public safety officer.

This virtual meeting/conference call is open to the public to participate remotely. For security purposes, members of the public who wish to participate must register at least seven (7) days in advance of the meeting/ conference call by contacting Mr. Joy.

Access to the virtual meeting/ conference call will not be allowed without prior registration. Please submit any comments or written statements for consideration by the Review Board in writing at least seven (7) days in advance of the meeting date.

Kristopher Brambila,

Assistant General Counsel, Office of Justice Programs.

[FR Doc. 2020–18335 Filed 8–20–20; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of a Change in Status of the Extended Benefit (EB) Program for Illinois

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

This notice announces a change in benefit period eligibility under the EB program for Illinois.

The following change has occurred since the publication of the last notice regarding the States' EB status:

It was determined that Illinois State law provides for the temporary adoption of the TUR trigger during periods of 100% Federal financing. Based on data released by the Bureau of Labor Statistics on June 19, 2020, the seasonally-adjusted total unemployment rates for Illinois exceeded 8.0 percent was greater than 110 percent in both the prior or second prior year, triggering Illinois ''on'' to a high unemployment periods (HUP) in EB. The HUP in Illinois is retroactive to July 5, 2020, and the maximum potential entitlement for eligible claimants in the EB program has increased from up to 13 weeks of potential duration to up to 20 weeks of potential duration.

The trigger notice covering state eligibility for the EB program can be found at: *http://ows.doleta.gov/unemploy/claims_arch.as.*

Information for Claimants

The duration of benefits payable in the EB program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the states by the U.S. Department of Labor. In the case of a state beginning an EB period, the State Workforce Agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits and is potentially eligible for EB (20 CFR 615.13(c)(1)).

Persons who believe they may be entitled to EB, or who wish to inquire about their rights under the program, should contact their State Workforce Agency.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance Room S–4524, Attn: Thomas Stengle, 200 Constitution Avenue NW, Washington, DC 20210, telephone number (202) 693–2991 (this is not a toll-free number) or by email: *Stengle.Thomas@dol.gov.*

Signed in Washington, DC.

John Pallasch,

Assistant Secretary for Employment and Training.

[FR Doc. 2020–18413 Filed 8–20–20; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Application for Use of Public Space by Non-DOL Agencies in the Frances Perkins Building

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of the Departmental Management (DM)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before September 21, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie by telephone at 202–693–0456, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Department of Labor (DOL) headquarters building, the Frances Perkins Building has conference and meeting capabilities located in its public space areas that entities outside of the Department may request to use. Use of public space in Federal buildings is governed by Section 581(h) of Title 40 of the United States Code (40 U.S.C. Section 581(h)). DOL has authority to issue occasional use permits to organizations engaging in ''cultural,'' ''educational,'' or ''recreational'' activities (permits are not available for ''commercial'' purposes.) FMR 102–74, Subpart D—Occasional Use of Public Buildings establishes rules and regulations for the occasional use of public areas of public buildings for cultural, educational and recreational activities as provided by 40 U.S.C. 581(h)(2). The public space use application in this **Federal Register** notice is designed to obtain information from entities outside DOL to help DOL comply with the Federal and Departmental rules and regulations. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 17, 2020 (85 FR 36618).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that

information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–DM.

Title of Collection: Application for Use of Public Space by Non-DOL Agencies in the Frances Perkins Building.

OMB Control Number: 1225–0087.

Affected Public: Private Sector, Not-for-profit institutions.

Total Estimated Number of Respondents: 10.

Total Estimated Number of Responses: 10.

Total Estimated Annual Time Burden: 1 hour.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Crystal Rennie,

Acting Departmental Clearance Officer.

[FR Doc. 2020–18412 Filed 8–20–20; 8:45 am]

BILLING CODE 4510–23–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of August 24, 31, September 7, 14, 21, 28, October 5, 12, 19, 2020.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of August 24, 2020

There are no meetings scheduled for the week of August 24, 2020.

Week of August 31, 2020—Tentative

There are no meetings scheduled for the week of August 31, 2020.

Week of September 7, 2020—Tentative

There are no meetings scheduled for the week of September 7, 2020.

Week of September 14, 2020—Tentative

Tuesday, September 15, 2020

10:00 a.m. Agency's Response to the COVID–19 Public Health Emergency (Public Meeting), (Contact: Luis Betancourt: 301–415–6146).

This meeting will be webcast live at the Web address—*https://www.nrc.gov/.*

Thursday, September 17, 2020

10:00 a.m. Transformation at the NRC—Milestones and Results (Public Meeting), (Contact: Maria Arribas-Colon: 301–415–6026).

This meeting will be webcast live at the Web address—*https://www.nrc.gov/.*

Week of September 21, 2020—Tentative

There are no meetings scheduled for the week of September 21, 2020.

Week of September 28, 2020—Tentative

Wednesday, September 30, 2020

9:00 a.m. Strategic Programmatic Overview of the Operating Reactors and New Reactors Business Lines and Results of the Agency Action Review Meeting (Public Meeting), (Contact: Candace de Messieres: 301–415–8395).

This meeting will be webcast live at the Web address—*https://www.nrc.gov/.*

Week of October 5, 2020—Tentative

Thursday, October 8, 2020

10:00 a.m. Meeting with the Organization of Agreement States and the Conference of Radiation Control Program Directors (Public Meeting), (Contact: Celimar Valentin-Rodriquez: 301–415–7124).

This meeting will be webcast live at the Web address—*https://www.nrc.gov/.*

Week of October 12, 2020—Tentative

There are no meetings scheduled for the week of October 12, 2020.

Week of October 19, 2020—Tentative

Wednesday, October 21, 2020

10:00 a.m. Briefing on Human Capital and Equal Employment Opportunity (Public Meeting), (Contact: Randi Neff: 301–287–0583).

This meeting will be webcast live at the Web address—*https://www.nrc.gov/.*

1:00 p.m. All Employees Meeting with the Commissioners (Public Meeting).

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov* or *Tyesha.Bush@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: August 19, 2020.

For the Nuclear Regulatory Commission.

Denise L. McGovern

Policy Coordinator, Office of the Secretary.

[FR Doc. 2020–18566 Filed 8–19–20; 4:15 pm]

BILLING CODE 7590–01–P

OFFICE OF SPECIAL COUNSEL

OSC Annual Survey

AGENCY: U.S. Office of Special Counsel.

ACTION: Notice for public comment; information collection.

SUMMARY: The U.S. Office of Special Counsel (OSC), seeks approval from the Office of Management and Budget (OMB) for use of a survey that differs only slightly from previously approved information collections. OSC is requesting emergency approval for the annual survey, which by statute must be completed by the end of FY2020. Following a one-year pilot-project survey in 2019, OSC now resumes its annual survey to collect feedback from those who have contacted OSC for assistance, either by filing complaints and/or disclosures with OSC, or by seeking Hatch Act Advisory Opinions. This OSC annual survey consists of four electronic questionnaires (one for each type of assistance an individual can seek from OSC), each asking between five and ten questions. OSC invites comments on: The accuracy of OSC's estimate of the burden of the proposed collections of information; 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 respondents.

DATES: Written comments should be received on or before September 21, 2020. However, pursuant to 5 CFR 1320.13, OSC is requesting OMB's emergency approval by August 26, 2020.

Therefore, comments are best assured of having full effect if received by OMB within 5 days of this notice's publication in the **Federal Register**.

ADDRESSES: You may submit written comments by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for OSC, New Executive Office Building, Room 10235, Washington, DC 20503; or by email via: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Amy Beckett, Senior Litigation Counsel, by telephone at (202) 804–7000, or by email at *frliaison@osc.gov.*

SUPPLEMENTARY INFORMATION: OSC is a permanent independent federal investigative and prosecutorial agency. OSC's basic authorities come from four federal statutes: The Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA). OSC's primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing, and to serve as a safe channel for allegations of wrongdoing. OSC is required to conduct an annual survey of individuals who seek its assistance. OSC conducts an annual survey pursuant to Section 13 of Public Law 103–424 (1994), codified at 5 U.S.C. 1212 note, which states, in part: ''[T]he survey shall—(1) determine if the individual seeking assistance was fully apprised of their rights; (2) determine whether the individual was successful either at the Office of Special Counsel or the Merit Systems Protection Board; and (3) determine if the individual, whether successful or not, was satisfied with the treatment received from the Office of Special Counsel.'' The statute requires OSC to publish the survey's results in OSC's annual report to Congress. Copies of prior years' annual reports are available on OSC's website, at *https://osc.gov/Pages/Resources-ReportsAndInfo.aspx* or by calling OSC at (202) 804–7000. The prior OSC Annual Survey, OMB Control Number 3255–0003, expired on October 31, 2017. The 2019 Pilot Project Survey, OMB Control Number 3255–0007, expired on March 31, 2020.

OSC will use the questionnaires to survey all persons who contacted OSC for assistance during the relevant time period.

OSC is requesting emergency approval of this modified collection of information, because by statute OSC must complete and review the annual survey by the end of FY2020, less than 45 days from the date of this Notice, well before the normal expiration periods; because obtaining the survey responses is essential to OSC's mission and must also be provided to Congress in OSC's annual report; and because OSC faced an unanticipated event with office disruptions due to the Coronavirus pandemic preventing earlier publication.

The survey questionnaires are available for review on line at *https://osc.gov/Resources/Pages/Reports.aspx#tabGroup07* or by calling OSC at (202) 804–7000.

Type of Information Collection Request: The survey seeks to determine whether individuals seeking assistance were fully apprised of their rights; were successful either at OSC or the MSPB; and whether successful or not, were satisfied with the treatment they received from OSC.

Affected public: Individuals (or their representatives) who sought OSC services through: (1) Submitting complaints alleging prohibited personnel practice, USERRA violations, or Hatch Act violations; (2) disclosures of information alleging violation of law, rule, or regulation, gross mismanagement or waste of funds, abuse of authority, substantial and specific danger to public health and/or safety, or censorship related to scientific research; or (3) seeking Hatch Act advisory opinions.

Respondent's Obligation: Voluntary.

Estimated Annual Number of Survey Form Respondents: 600.

Frequency of Survey form use: One-time.

Estimated Average Amount of Time for a Person to Respond to survey: 5.5 minutes.

Estimated Annual Survey Burden: 55 hours.

Dated: August 17, 2020.

Travis Millsaps,

Deputy Special Counsel for Public Policy.

[FR Doc. 2020–18358 Filed 8–20–20; 8:45 am]

BILLING CODE 7405–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Payment of Premiums

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request OMB approval of revised collection of information.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is modifying the collection of information under its regulation on Payment of Premiums (OMB control number 1212–0009; expiring December 31, 2022) and intends to request that the Office of Management and Budget (OMB) approve the revised collection of information under the Paperwork Reduction Act for three years. This notice informs the public of PBGC's intent and solicits public comment on the collection of information

DATES: Comments must be submitted on or before October 20, 2020.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: paperwork.comments@pbgc.gov.*
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to Payment of Premiums. All comments received will be posted without change to PBGC's website, *http://www.pbgc.gov,* including any personal information provided.

Copies of the revisions to the collection of information may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, or calling 202–326–4040 during normal business hours. TTY users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4040. PBGC's laws and procedures for payment of premiums may be accessed on PBGC's website at *http://www.pbgc.gov.*

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (*rifkin.melissa@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; 202–229–6563. (TTY users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4400, extension 6563.)

SUPPLEMENTARY INFORMATION: Section 4007 of title IV of the Employee Retirement Income Security Act of 1974 (ERISA) requires pension plans covered under title IV pension insurance programs to pay premiums to PBGC. All

plans covered by title IV pay a flat-rate per-participant premium. An underfunded single-employer plan also pays a variable-rate premium based on the value of the plan's unfunded vested benefits.

Pursuant to section 4007, PBGC has issued its regulation on Payment of Premiums (29 CFR part 4007). Under § 4007.3 of the premium payment regulation, the plan administrator of each pension plan covered by title IV of ERISA is required to file a premium payment and information prescribed by PBGC for each premium payment year. Premium information is filed electronically using ''My Plan Administration Account'' (''My PAA'') through PBGC's website. Under § 4007.10 of the premium payment regulation, plan administrators are required to retain records about premiums and information submitted in premium filings.

Premium filings report (i) the flat-rate premium and related data (all plans), (ii) the variable-rate premium and related data (single-employer plans), and (iii) additional data such as identifying information and miscellaneous plan-related or filing-related data (all plans). PBGC needs this information to identify the plans for which premiums are paid, to verify whether the amounts paid are correct, to help PBGC determine the magnitude of its exposure in the event of plan termination, to help track the creation of new plans and transfer of participants and plan assets and liabilities among plans, and to keep PBGC's insured-plan inventory up to date. That information and the retained records are also needed for audit purposes.

PBGC intends to modify the 2021 premium filing to require certain plans that transferred assets to another plan (or received assets from another plan) at the beginning of the plan year to report information about the transfer. Such plans will be required to report whether the transfer was de minimis and, in the case of a de minimis merger, whether the transferee plan had fewer assets than the transferor plan. This information is necessary to verify that the date reported as the ''participant count date'' (*i.e.,* the date as of which participants are counted for premium purposes) is correct.

PBGC also intends to update the premium rates and make conforming, clarifying, and editorial changes. One such change, to conform with the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019, is adding the option of ''CSEC plan'' (meaning cooperative and small-employer charity plan) as a response to the question of ''Plan type.''

The collection of information under the regulation has been approved through December 31, 2022, by OMB under control number 1212–0009. PBGC intends to request that OMB approve the revised collection of information for three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC estimates that it will receive 31,245 premium filings per year from 31,245 plan administrators under this collection of information. PBGC further estimates that the annual burden of this collection of information is 13,540 hours and $21,621,540.

PBGC is soliciting public comments to—

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodologies and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

Issued in Washington, DC.

Stephanie Cibinic,

Deputy Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2020–18382 Filed 8–20–20; 8:45 am]

BILLING CODE 7709–02–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–222 and CP2020–252; Docket Nos. MC2020–223 and CP2020–253]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 25, 2020.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2020–222 and CP2020–252; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 7 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 17, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* August 25, 2020.

2. *Docket No(s).:* MC2020–223 and CP2020–253; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 159 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 17, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* August 25, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–18387 Filed 8–20–20; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2020–250; Order No. 5639]

Inbound EMS 2

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is acknowledging a recent Postal Service filing of its intention to change prices not of general applicability to be effective January 1, 2021. This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 24, 2020.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Contents of Filing
III. Commission Action
IV. Ordering Paragraphs

I. Introduction

On August 14, 2020, the Postal Service filed notice pursuant to 39 CFR 3035.105, announcing its intention to change rates not of general applicability for Inbound EMS 2 effective January 1, 2021.[1]

II. Contents of Filing

To support its proposed Inbound EMS 2 prices, the Postal Service filed a redacted version of the proposed prices, a copy of the certification required under 39 CFR 3035.105(c)(2), a redacted copy of Governors' Decision No. 19–1, a redacted copy of the most recent annual EMS Pay-for-Performance (PfP) Plan (for 2020), a redacted copy of the most recent available EMS Cooperative Report Cards for Calendar Year (CY) 2019, and redacted copies of relevant portions of the four quarterly EMS PfP reports for CY 2019 used to calculate any PfP penalties. Notice at 2–3; *see id.* Attachments 2–7.

Additionally, the Postal Service filed unredacted copies of Governors' Decision No. 19–1, its proposed prices, service performance data and plan, and related financial information under seal. Notice at 2. The Postal Service also filed an application for non-public treatment of materials under seal. *Id.* Attachment 1.

III. Commission Action

The Commission establishes Docket No. CP2020–250 for consideration of matters raised by the Notice and appoints Katalin K. Clendenin to serve as Public Representative in this docket.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, and 39 CFR part 3035. Comments are due no later than August 24, 2020. The public portions of the filing can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s) can be accessed through compliance with the requirements of 39 CFR part 3011.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2020–250 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than August 24, 2020.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2020–18327 Filed 8–20–20; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability for Inbound EMS 2, and Application for Non-Public Treatment, August 14, 2020, at 1 (Notice).

POSTAL SERVICE

Change in Rates and Classes of General Applicability for Competitive Products

AGENCY: Postal Service™.

ACTION: Notice of a change in rates of general applicability for competitive products.

SUMMARY: This notice sets forth time-limited changes in rates of general applicability for competitive products.

DATES: October 18, 2020.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: On August 6, 2020, pursuant to their authority under 39 U.S.C. 3632, the Governors of the Postal Service established time-limited price changes for competitive products. The Governors' Decision and the record of proceedings in connection with such decision are reprinted below in accordance with section 3632(b)(2).

Joshua J. Hofer,

Attorney, Federal Compliance.

Decision of the Governors of the United States Postal Service on Changes in Rates of General Applicability for Competitive Products (Governors' Decision No. 20–3)

August 6, 2020

Statement of Explanation and Justification

Pursuant to authority under section 3632 of title 39, as amended by the

Postal Accountability and Enhancement Act of 2006 (''PAEA''), we establish new prices of general applicability for certain domestic commercial shipping services (competitive products), and concurrent classification changes to effectuate the new prices. These prices shall be in effect from October 18, 2020 until December 27, 2020, at which time prices will be restored to the levels that were in effect prior to these increases. The changes are described generally below, with a detailed description of the changes in the attachment. The attachment includes the draft Mail Classification Schedule sections with the new prices that will take effect on October 18 displayed in the price charts, as well as the Mail Classification Schedule sections with the prices that will be restored on December 27.

As shown in the nonpublic annex being filed under seal herewith, the changes we establish should enable each competitive product to cover its attributable costs (39 U.S.C. 3633(a)(2)) and should result in competitive products as a whole complying with 39 U.S.C. 3633(a)(3), which, as implemented by 39 CFR 3035.107(c), requires competitive products collectively to contribute a minimum of 9.1 percent to the Postal Service's institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products should arise (39 U.S.C. 3633(a)(1)). We therefore find that the new prices are in accordance with 39 U.S.C. 3632–3633 and 39 CFR 3035.102.

I. Domestic Products

A. Priority Mail Express

Overall, the Priority Mail Express price change represents a 0.7 percent increase. The existing structure of zoned Retail, Commercial Base, and Commercial Plus price categories is maintained, with Commercial Base and Commercial Plus prices continuing to be set equal to each other. Retail prices will remain unchanged. The Commercial Base and Commercial Plus price categories will increase 4.4 percent on average.

B. Priority Mail

On average, the Priority Mail prices will be increased by 1.7 percent. The existing structure of Priority Mail Retail, Commercial Base, and Commercial Plus price categories is maintained. Retail prices will remain unchanged. The Commercial Base price category will increase 4.2 percent on average, while the Commercial Plus price category will increase 3.9 percent on average.

C. Parcel Select

On average, prices for destination-entered non-Lightweight Parcel Select, the Postal Service's bulk ground shipping product, will increase 5.9 percent. For destination delivery unit (DDU) entered parcels, the average price increase is 6.8 percent. For destination sectional center facility (DSCF) destination entered parcels, the average price increase is 8.0 percent. For destination network distribution center (DNDC) parcels, the average price increase is 5.6 percent. Prices for Parcel Select Lightweight will increase by 12.0 percent, while Parcel Select Ground will see a 3.0 percent price increase.

D. Parcel Return Service

Parcel Return Service prices will have an overall price increase of 3.3 percent. Prices for parcels retrieved at a return sectional center facility (RSCF) will increase by 1.9 percent, and prices for parcels picked up at a return delivery unit (RDU) will increase 4.7 percent.

E. First-Class Package Service

First-Class Package Service (FCPS) continues to be positioned as a lightweight (less than one pound) offering primarily used by businesses for fulfillment purposes. Overall, FCPS prices will increase 5.6 percent, which reflects a 7.0 increase for FCPS-Commercial, and no change to FCPS-Retail prices.

No price changes are being made to USPS Retail Ground, Special Services, or International competitive products.

Order

The changes in prices set forth herein shall be effective at 12:01 a.m. on October 18, 2020, and will be rolled back to current levels on December 27, 2020. We direct the Secretary of the Board of Governors to have this decision published in the **Federal Register** in accordance with 39 U.S.C. 3632(b)(2), and direct management to file with the Postal Regulatory Commission appropriate notice of these changes.

By The Governors:

/s/ ________________________________

Robert M. Duncan,

Chairman, Board of Governors.

United States Postal Service Office of the Board of Governors

Certification of Governors' Vote on Governors' Decision No. 20–3

Consistent with 39 U.S.C. 3632(a), I hereby certify that, on August 6, 2020, the Governors voted on adopting Governors' Decision No. 20–3, and that a majority of the Governors then holding office voted in favor of that Decision.

/s/ ________________________________

Date: August 6, 2020.

Katherine Sigler,

Secretary of the Board of Governors (A).

Part B

Competitive Products

2000 Competitive Product List

2100 Domestic Products

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2105 Priority Mail Express

* * *

2105.6 Prices

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COMMERCIAL BASE ZONE/WEIGHT

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	24.25	24.80	25.55	27.85	29.75	31.55	33.95	45.45
1	24.50	26.70	28.95	32.70	35.15	37.15	39.55	53.00
2	24.75	28.55	32.40	37.50	40.55	42.70	45.10	60.55
3	25.00	30.45	35.80	42.35	45.90	48.30	50.70	68.05
4	25.25	32.30	39.25	47.15	51.30	53.85	56.25	75.60
5	25.50	34.20	42.65	52.00	56.70	59.45	61.85	83.15
6	27.95	37.45	47.20	57.05	61.90	65.05	67.65	91.00
7	30.40	40.70	51.80	62.10	67.10	70.65	73.45	98.85
8	32.90	44.00	56.35	67.10	72.25	76.25	79.25	106.70
9	35.35	47.25	60.95	72.15	77.45	81.85	85.05	114.55
10	37.80	50.50	65.50	77.20	82.65	87.45	90.85	122.40

COMMERCIAL BASE ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
11	39.70	54.40	69.40	81.10	86.40	91.40	95.05	128.05
12	41.60	58.30	73.25	85.05	90.20	95.35	99.20	133.70
13	43.55	62.20	77.15	88.95	93.95	99.30	103.40	139.40
14	45.45	66.10	81.05	92.90	97.70	103.25	107.55	145.05
15	47.35	70.00	84.95	96.80	101.50	107.15	111.70	150.70
16	49.25	73.85	88.80	100.70	105.25	111.10	115.90	156.35
17	51.15	77.75	92.70	104.65	109.00	115.05	120.05	162.00
18	53.10	81.65	96.60	108.55	112.75	119.00	124.25	167.70
19	55.00	85.55	100.45	112.50	116.55	122.95	128.40	173.35
20	56.90	89.45	104.35	116.40	120.30	126.90	132.60	179.00
21	58.85	93.40	108.25	120.65	124.65	131.40	137.35	185.45
22	60.85	97.35	112.15	124.95	129.00	135.95	142.10	191.90
23	62.80	101.30	116.00	129.20	133.30	140.45	146.90	198.35
24	64.80	105.25	119.90	133.50	137.65	144.95	151.65	204.75
25	66.75	109.20	123.80	137.75	142.00	149.45	156.40	211.20
26	68.70	113.15	127.70	142.00	146.35	154.00	161.15	217.65
27	70.70	117.10	131.60	146.30	150.70	158.50	165.90	224.10
28	72.65	121.05	135.45	150.55	155.00	163.00	170.70	230.55
29	74.65	125.00	139.35	154.85	159.35	167.50	175.45	237.00
30	76.60	128.95	143.25	159.10	163.70	172.05	180.20	243.45
31	78.55	132.90	147.15	163.35	168.05	176.55	184.95	249.90
32	80.55	136.85	151.05	167.65	172.40	181.05	189.70	256.30
33	82.50	140.80	154.90	171.90	176.70	185.55	194.50	262.75
34	84.50	144.75	158.80	176.20	181.05	190.10	199.25	269.20
35	86.45	148.70	162.70	180.45	185.40	194.60	204.00	275.65
36	88.65	152.60	167.10	185.25	190.45	199.80	209.40	283.00
37	90.50	156.35	171.35	189.85	195.45	205.00	214.85	290.35
38	92.60	160.25	175.65	194.60	200.25	210.00	220.15	297.55
39	94.85	164.15	180.05	199.25	204.90	214.80	225.60	304.95
40	96.85	167.80	184.40	204.05	209.85	219.95	231.05	312.30
41	98.75	171.75	188.65	208.60	214.90	225.15	236.40	319.50
42	100.45	175.65	192.90	213.25	219.90	230.30	241.70	326.75
43	102.75	179.40	197.15	217.85	224.75	235.30	247.20	334.10
44	104.55	183.30	201.50	222.55	229.55	240.25	252.50	341.35
45	106.55	187.15	205.65	227.05	234.45	245.35	258.00	348.80
46	108.60	190.90	210.20	231.90	239.30	250.30	263.35	356.05
47	110.85	194.75	214.40	236.50	244.20	255.35	268.75	363.35
48	112.75	198.70	218.60	240.95	249.10	260.40	274.15	370.65
49	114.70	202.40	222.95	245.65	254.15	265.60	279.60	378.05
50	117.15	206.35	227.30	250.40	258.90	270.40	284.95	385.25
51	119.15	210.25	231.55	254.95	263.70	275.40	289.60	391.55
52	121.20	213.90	235.75	259.50	268.80	280.55	295.80	400.00
53	123.10	217.85	240.15	264.15	273.70	285.60	301.20	407.25
54	125.30	221.75	244.35	268.65	278.55	290.65	306.55	414.55
55	127.75	226.80	248.80	273.40	283.40	295.55	311.90	421.80
56	130.40	230.70	253.00	277.90	288.25	300.55	317.35	429.15
57	132.60	234.55	257.30	282.50	293.10	305.55	322.70	436.35
58	134.85	238.25	261.55	287.00	298.10	310.60	328.10	443.65
59	136.70	242.10	265.80	291.60	303.10	315.65	333.45	450.95
60	138.50	245.95	270.15	296.15	307.95	320.60	338.85	458.25
61	140.45	249.90	274.65	300.95	312.85	325.60	344.25	465.55
62	142.60	253.60	278.80	305.35	317.65	330.45	349.75	473.00
63	144.95	257.45	283.10	309.95	322.60	335.60	355.20	480.35
64	146.85	261.25	287.30	314.40	327.55	340.60	360.60	487.65
65	149.35	265.10	291.60	318.95	332.40	345.45	365.90	494.85
66	152.10	269.05	296.00	323.65	337.30	350.50	371.25	502.05
67	153.85	272.80	300.35	328.25	342.05	355.30	376.70	509.45
68	155.85	276.65	304.60	332.65	347.15	360.50	382.20	516.95
69	158.30	280.55	308.85	337.20	351.90	365.35	387.35	523.95
70	161.15	284.40	313.20	341.75	356.85	370.30	392.80	531.30

COMMERCIAL BASE FLAT RATE ENVELOPE

	($)
Commercial Base Regular Flat Rate Envelope, per piece	24.25
Commercial Base Legal Flat Rate Envelope, per piece	24.45
Commercial Base Padded Flat Rate Envelope, per piece	24.75

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COMMERCIAL PLUS ZONE/WEIGHT

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	24.25	24.80	25.55	27.85	29.75	31.55	33.95	45.45
1	24.50	26.70	28.95	32.70	35.15	37.15	39.55	53.00
2	24.75	28.55	32.40	37.50	40.55	42.70	45.10	60.55
3	25.00	30.45	35.80	42.35	45.90	48.30	50.70	68.05
4	25.25	32.30	39.25	47.15	51.30	53.85	56.25	75.60
5	25.50	34.20	42.65	52.00	56.70	59.45	61.85	83.15
6	27.95	37.45	47.20	57.05	61.90	65.05	67.65	91.00
7	30.40	40.70	51.80	62.10	67.10	70.65	73.45	98.85
8	32.90	44.00	56.35	67.10	72.25	76.25	79.25	106.70
9	35.35	47.25	60.95	72.15	77.45	81.85	85.05	114.55
10	37.80	50.50	65.50	77.20	82.65	87.45	90.85	122.40
11	39.70	54.40	69.40	81.10	86.40	91.40	95.05	128.05
12	41.60	58.30	73.25	85.05	90.20	95.35	99.20	133.70
13	43.55	62.20	77.15	88.95	93.95	99.30	103.40	139.40
14	45.45	66.10	81.05	92.90	97.70	103.25	107.55	145.05
15	47.35	70.00	84.95	96.80	101.50	107.15	111.70	150.70
16	49.25	73.85	88.80	100.70	105.25	111.10	115.90	156.35
17	51.15	77.75	92.70	104.65	109.00	115.05	120.05	162.00
18	53.10	81.65	96.60	108.55	112.75	119.00	124.25	167.70
19	55.00	85.55	100.45	112.50	116.55	122.95	128.40	173.35
20	56.90	89.45	104.35	116.40	120.30	126.90	132.60	179.00
21	58.85	93.40	108.25	120.65	124.65	131.40	137.35	185.45
22	60.85	97.35	112.15	124.95	129.00	135.95	142.10	191.90
23	62.80	101.30	116.00	129.20	133.30	140.45	146.90	198.35
24	64.80	105.25	119.90	133.50	137.65	144.95	151.65	204.75
25	66.75	109.20	123.80	137.75	142.00	149.45	156.40	211.20
26	68.70	113.15	127.70	142.00	146.35	154.00	161.15	217.65
27	70.70	117.10	131.60	146.30	150.70	158.50	165.90	224.10
28	72.65	121.05	135.45	150.55	155.00	163.00	170.70	230.55
29	74.65	125.00	139.35	154.85	159.35	167.50	175.45	237.00
30	76.60	128.95	143.25	159.10	163.70	172.05	180.20	243.45
31	78.55	132.90	147.15	163.35	168.05	176.55	184.95	249.90
32	80.55	136.85	151.05	167.65	172.40	181.05	189.70	256.30
33	82.50	140.80	154.90	171.90	176.70	185.55	194.50	262.75
34	84.50	144.75	158.80	176.20	181.05	190.10	199.25	269.20
35	86.45	148.70	162.70	180.45	185.40	194.60	204.00	275.65
36	88.65	152.60	167.10	185.25	190.45	199.80	209.40	283.00
37	90.50	156.35	171.35	189.85	195.45	205.00	214.85	290.35
38	92.60	160.25	175.65	194.60	200.25	210.00	220.15	297.55
39	94.85	164.15	180.05	199.25	204.90	214.80	225.60	304.95
40	96.85	167.80	184.40	204.05	209.85	219.95	231.05	312.30
41	98.75	171.75	188.65	208.60	214.90	225.15	236.40	319.50
42	100.45	175.65	192.90	213.25	219.90	230.30	241.70	326.75
43	102.75	179.40	197.15	217.85	224.75	235.30	247.20	334.10
44	104.55	183.30	201.50	222.55	229.55	240.25	252.50	341.35
45	106.55	187.15	205.65	227.05	234.45	245.35	258.00	348.80
46	108.60	190.90	210.20	231.90	239.30	250.30	263.35	356.05
47	110.85	194.75	214.40	236.50	244.20	255.35	268.75	363.35
48	112.75	198.70	218.60	240.95	249.10	260.40	274.15	370.65
49	114.70	202.40	222.95	245.65	254.15	265.60	279.60	378.05
50	117.15	206.35	227.30	250.40	258.90	270.40	284.95	385.25
51	119.15	210.25	231.55	254.95	263.70	275.40	289.60	391.55
52	121.20	213.90	235.75	259.50	268.80	280.55	295.80	400.00
53	123.10	217.85	240.15	264.15	273.70	285.60	301.20	407.25
54	125.30	221.75	244.35	268.65	278.55	290.65	306.55	414.55
55	127.75	226.80	248.80	273.40	283.40	295.55	311.90	421.80
56	130.40	230.70	253.00	277.90	288.25	300.55	317.35	429.15
57	132.60	234.55	257.30	282.50	293.10	305.55	322.70	436.35
58	134.85	238.25	261.55	287.00	298.10	310.60	328.10	443.65
59	136.70	242.10	265.80	291.60	303.10	315.65	333.45	450.95
60	138.50	245.95	270.15	296.15	307.95	320.60	338.85	458.25
61	140.45	249.90	274.65	300.95	312.85	325.60	344.25	465.55
62	142.60	253.60	278.80	305.35	317.65	330.45	349.75	473.00
63	144.95	257.45	283.10	309.95	322.60	335.60	355.20	480.35
64	146.85	261.25	287.30	314.40	327.55	340.60	360.60	487.65
65	149.35	265.10	291.60	318.95	332.40	345.45	365.90	494.85
66	152.10	269.05	296.00	323.65	337.30	350.50	371.25	502.05
67	153.85	272.80	300.35	328.25	342.05	355.30	376.70	509.45

COMMERCIAL PLUS ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
68	155.85	276.65	304.60	332.65	347.15	360.50	382.20	516.95
69	158.30	280.55	308.85	337.20	351.90	365.35	387.35	523.95
70	161.15	284.40	313.20	341.75	356.85	370.30	392.80	531.30

COMMERCIAL PLUS FLAT RATE ENVELOPE

	($)
Commercial Plus Regular Flat Rate Envelope, per piece	24.25
Commercial Plus Legal Flat Rate Envelope, per piece	24.45
Commercial Plus Padded Flat Rate Envelope, per piece	24.75

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2110 Priority Mail

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2110.6 Prices

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COMMERCIAL BASE PRIORITY MAIL ZONE/WEIGHT

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
1	7.42	7.75	7.96	8.20	8.38	8.55	8.82	11.80
2	8.04	8.24	8.52	9.16	10.39	10.94	11.59	17.85
3	8.24	8.63	8.99	9.94	12.55	13.89	16.14	24.07
4	8.34	8.85	9.47	10.73	14.56	16.46	18.54	28.90
5	8.44	8.90	9.79	11.04	16.54	18.86	21.41	33.57
6	8.55	8.94	9.90	14.58	18.87	21.85	24.92	38.41
7	8.79	10.09	10.14	16.29	20.86	24.58	27.95	43.08
8	8.85	10.57	11.89	17.75	22.87	27.03	31.34	48.31
9	9.68	10.96	12.37	19.00	24.85	29.24	34.80	53.68
10	10.16	11.50	12.56	20.70	27.07	32.43	38.18	58.34
11	11.70	13.93	14.90	22.97	29.55	35.90	42.07	63.70
12	12.40	14.79	17.29	24.58	32.21	38.80	45.13	68.26
13	13.02	15.62	18.08	25.87	34.54	40.35	46.71	70.69
14	13.67	16.46	19.02	27.36	36.46	42.58	49.01	74.17
15	14.19	17.30	19.93	28.74	37.85	43.39	50.28	76.12
16	14.79	18.37	21.18	30.43	40.35	46.24	53.53	80.28
17	15.25	19.20	22.17	31.90	42.38	48.62	56.35	84.49
18	15.54	19.78	23.15	33.31	44.60	51.00	59.15	88.73
19	15.89	20.23	23.67	34.18	46.58	53.35	61.94	92.92
20	16.50	20.54	24.14	34.80	47.78	55.33	64.79	97.18
21	17.21	21.02	24.69	35.41	48.15	55.85	65.62	99.25
22	17.74	21.58	25.50	36.11	48.48	56.28	66.37	100.40
23	18.26	22.08	26.10	36.76	48.74	56.66	66.76	100.99
24	18.99	23.00	27.56	38.19	49.76	58.13	68.38	103.45
25	19.70	23.80	29.28	39.46	50.49	59.57	69.56	105.22
26	20.87	25.49	32.30	41.54	51.71	61.03	71.73	108.50
27	22.09	26.62	34.24	45.24	52.40	62.44	74.40	112.59
28	22.75	26.97	35.20	46.41	53.11	63.88	77.18	116.80
29	23.44	27.24	36.14	47.02	53.99	65.34	79.25	119.91
30	24.12	27.63	36.98	47.66	55.49	66.76	80.94	122.50
31	24.79	27.90	37.55	48.26	56.29	68.23	82.59	126.00
32	25.07	28.48	38.17	48.82	57.02	69.69	84.27	128.56
33	25.45	29.26	39.11	49.46	58.12	71.12	85.81	130.93
34	25.68	30.01	40.09	50.52	59.49	72.57	87.41	133.40
35	25.96	30.71	40.66	51.58	61.07	74.02	88.91	135.66
36	26.28	31.59	41.19	52.69	62.60	75.02	90.41	137.97
37	26.55	32.17	41.78	53.62	64.23	75.97	91.89	140.24
38	26.81	32.94	42.30	54.68	66.00	76.84	93.34	142.47
39	27.06	33.70	42.78	55.80	67.55	78.85	94.78	144.67
40	27.34	34.40	43.33	56.96	68.63	80.61	96.07	146.62
41	27.63	34.97	43.79	57.46	69.78	82.32	97.45	149.91
42	27.83	35.23	44.17	58.42	71.00	83.44	98.78	151.95
43	28.15	35.49	44.56	59.38	72.69	84.47	100.04	153.89
44	28.34	35.74	44.94	60.33	73.84	85.47	101.16	155.66
45	28.52	35.99	45.34	61.29	74.65	86.39	102.44	157.62
46	28.77	36.25	45.73	62.25	75.48	87.32	103.67	159.49

COMMERCIAL BASE PRIORITY MAIL ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
47	28.98	36.50	46.11	63.21	76.26	88.31	104.81	161.27
48	29.22	36.76	46.50	64.16	77.24	89.15	105.92	163.02
49	29.44	37.00	46.89	65.12	78.29	90.08	106.99	164.61
50	29.56	37.26	47.28	66.08	79.38	91.22	108.11	166.37
51	29.99	37.52	47.65	67.20	80.46	92.52	109.11	169.25
52	30.43	37.78	48.04	67.67	81.24	93.91	110.40	171.22
53	30.99	38.02	48.43	68.22	81.92	95.44	111.80	173.41
54	31.43	38.29	48.81	68.81	82.50	96.80	113.36	175.83
55	31.92	38.53	49.20	69.24	83.18	98.33	114.88	178.19
56	32.35	38.79	49.59	69.76	83.73	99.71	116.05	180.03
57	32.86	39.04	49.98	70.17	84.36	101.22	117.07	181.64
58	33.35	39.29	50.36	70.61	84.86	102.55	118.04	183.10
59	33.82	39.55	50.74	71.04	85.34	103.25	118.90	184.47
60	34.24	39.80	51.13	71.43	85.76	103.85	119.75	185.76
61	34.79	40.05	51.52	71.79	86.24	104.45	121.35	188.28
62	35.21	40.31	51.90	72.10	86.64	104.91	123.28	191.24
63	35.84	40.57	52.30	72.48	87.13	105.41	125.25	194.30
64	36.15	40.81	52.68	72.80	87.52	105.89	127.16	197.29
65	36.67	41.07	53.08	73.02	87.77	106.42	129.14	200.37
66	37.14	41.33	53.45	73.35	88.21	106.74	131.01	203.27
67	37.69	41.58	54.35	73.61	88.49	107.16	132.75	205.94
68	38.13	41.83	55.03	73.81	89.60	107.72	134.15	208.12
69	38.64	42.09	55.73	74.03	90.67	108.22	135.56	210.34
70	39.04	42.34	56.60	74.26	91.76	108.61	137.02	212.59

COMMERCIAL BASE FLAT RATE ENVELOPE

	($)
Commercial Base Regular Flat Rate Envelope, per piece	7.55
Commercial Base Legal Flat Rate Envelope, per piece	7.85
Commercial Base Padded Flat Rate Envelope, per piece	8.15

COMMERCIAL BASE FLAT RATE BOX

Size	Delivery to domestic address ($)	Delivery to APO/FPO/DPO address ($)
Small Flat Rate Box	8.05	8.05
Regular Flat Rate Boxes	13.60	13.60
Large Flat Rate Boxes	18.70	17.20

COMMERCIAL BASE REGIONAL RATE BOXES

Size	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
A	8.08	8.32	8.61	9.32	10.82	11.53	12.50	19.09
B	8.47	8.91	9.82	11.93	17.12	19.61	22.29	34.78

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COMMERCIAL PLUS PRIORITY MAIL ZONE/WEIGHT

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	7.42	7.75	7.96	8.20	8.38	8.55	8.82	11.80
1	7.42	7.75	7.96	8.20	8.38	8.55	8.82	11.80
2	8.04	8.24	8.52	9.16	10.39	10.94	11.59	17.85
3	8.24	8.63	8.99	9.94	12.55	13.89	16.14	24.07

COMMERCIAL PLUS PRIORITY MAIL ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
4	8.34	8.85	9.47	10.73	14.56	16.46	18.54	28.90
5	8.44	8.90	9.79	11.04	16.54	18.86	21.41	33.57
6	8.55	8.94	9.90	14.58	18.87	21.85	24.92	38.41
7	8.79	10.09	10.14	16.29	20.86	24.58	27.95	43.08
8	8.85	10.57	11.89	17.75	22.87	27.03	31.34	48.31
9	9.68	10.96	12.37	19.00	24.85	29.24	34.80	53.68
10	10.16	11.50	12.56	20.70	27.07	32.43	38.18	58.34
11	11.70	13.93	14.90	22.97	29.55	35.90	42.07	63.70
12	12.40	14.79	17.29	24.58	32.21	38.80	45.13	68.26
13	13.02	15.62	18.08	25.87	34.54	40.35	46.71	70.69
14	13.67	16.46	19.02	27.36	36.46	42.58	49.01	74.17
15	14.19	17.30	19.93	28.74	37.85	43.39	50.28	76.12
16	14.79	18.37	21.18	30.43	40.35	46.24	53.53	80.28
17	15.25	19.20	22.17	31.90	42.38	48.62	56.35	84.49
18	15.54	19.78	23.15	33.31	44.60	51.00	59.15	88.73
19	15.89	20.23	23.67	34.18	46.58	53.35	61.94	92.92
20	16.50	20.54	24.14	34.80	47.78	55.33	64.79	97.18
21	17.21	21.02	24.69	35.41	48.15	55.85	65.62	99.25
22	17.74	21.58	25.50	36.11	48.48	56.28	66.37	100.40
23	18.26	22.08	26.10	36.76	48.74	56.66	66.76	100.99
24	18.99	23.00	27.56	38.19	49.76	58.13	68.38	103.45
25	19.70	23.80	29.28	39.46	50.49	59.57	69.56	105.22
26	20.87	25.49	32.30	41.54	51.71	61.03	71.73	108.50
27	22.09	26.62	34.24	45.24	52.40	62.44	74.40	112.59
28	22.75	26.97	35.20	46.41	53.11	63.88	77.18	116.80
29	23.44	27.24	36.14	47.02	53.99	65.34	79.25	119.91
30	24.12	27.63	36.98	47.66	55.49	66.76	80.94	122.50
31	24.79	27.90	37.55	48.26	56.29	68.23	82.59	126.00
32	25.07	28.48	38.17	48.82	57.02	69.69	84.27	128.56
33	25.45	29.26	39.11	49.46	58.12	71.12	85.81	130.93
34	25.68	30.01	40.09	50.52	59.49	72.57	87.41	133.40
35	25.96	30.71	40.66	51.58	61.07	74.02	88.91	135.66
36	26.28	31.59	41.19	52.69	62.60	75.02	90.41	137.97
37	26.55	32.17	41.78	53.62	64.23	75.97	91.89	140.24
38	26.81	32.94	42.30	54.68	66.00	76.84	93.34	142.47
39	27.06	33.70	42.78	55.80	67.55	78.85	94.78	144.67
40	27.34	34.40	43.33	56.96	68.63	80.61	96.07	146.62
41	27.63	34.97	43.79	57.46	69.78	82.32	97.45	149.91
42	27.83	35.23	44.17	58.42	71.00	83.44	98.78	151.95
43	28.15	35.49	44.56	59.38	72.69	84.47	100.04	153.89
44	28.34	35.74	44.94	60.33	73.84	85.47	101.16	155.66
45	28.52	35.99	45.34	61.29	74.65	86.39	102.44	157.62
46	28.77	36.25	45.73	62.25	75.48	87.32	103.67	159.49
47	28.98	36.50	46.11	63.21	76.26	88.31	104.81	161.27
48	29.22	36.76	46.50	64.16	77.24	89.15	105.92	163.02
49	29.44	37.00	46.89	65.12	78.29	90.08	106.99	164.61
50	29.56	37.26	47.28	66.08	79.38	91.22	108.11	166.37
51	29.99	37.52	47.65	67.20	80.46	92.52	109.11	169.25
52	30.43	37.78	48.04	67.67	81.24	93.91	110.40	171.22
53	30.99	38.02	48.43	68.22	81.92	95.44	111.80	173.41
54	31.43	38.29	48.81	68.81	82.50	96.80	113.36	175.83
55	31.92	38.53	49.20	69.24	83.18	98.33	114.88	178.19
56	32.35	38.79	49.59	69.76	83.73	99.71	116.05	180.03
57	32.86	39.04	49.98	70.17	84.36	101.22	117.07	181.64
58	33.35	39.29	50.36	70.61	84.86	102.55	118.04	183.10
59	33.82	39.55	50.74	71.04	85.34	103.25	118.90	184.47
60	34.24	39.80	51.13	71.43	85.76	103.85	119.75	185.76
61	34.79	40.05	51.52	71.79	86.24	104.45	121.35	188.28
62	35.21	40.31	51.90	72.10	86.64	104.91	123.28	191.24
63	35.84	40.57	52.30	72.48	87.13	105.41	125.25	194.30
64	36.15	40.81	52.68	72.80	87.52	105.89	127.16	197.29
65	36.67	41.07	53.08	73.02	87.77	106.42	129.14	200.37
66	37.14	41.33	53.45	73.35	88.21	106.74	131.01	203.27
67	37.69	41.58	54.35	73.61	88.49	107.16	132.75	205.94
68	38.13	41.83	55.03	73.81	89.60	107.72	134.15	208.12
69	38.64	42.09	55.73	74.03	90.67	108.22	135.56	210.34
70	39.04	42.34	56.60	74.26	91.76	108.61	137.02	212.59

COMMERCIAL PLUS FLAT RATE ENVELOPE

	($)
Commercial Plus Regular Flat Rate Envelope, per piece	7.55
Commercial Plus Legal Flat Rate Envelope, per piece	7.85
Commercial Plus Padded Flat Rate Envelope, per piece	8.15

COMMERCIAL PLUS FLAT RATE BOX

Size	Delivery to domestic address ($)	Delivery to APO/FPO/DPO address ($)
Small Flat Rate Box	8.05	8.05
Medium Flat Rate Boxes	13.60	13.60
Large Flat Rate Boxes	18.70	17.20

COMMERCIAL PLUS REGIONAL RATE BOXES

Maximum cubic feet	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
A	8.08	8.32	8.61	9.32	10.82	11.53	12.50	19.09
B	8.47	8.91	9.82	11.93	17.12	19.61	22.29	34.78

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COMMERCIAL PLUS CUBIC

Maximum cubic feet	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.10	7.42	7.75	7.96	8.20	8.38	8.55	8.82	11.80
0.20	7.86	8.20	8.42	9.11	9.40	9.62	9.96	13.55
0.30	8.44	8.66	8.95	10.05	11.38	11.98	12.69	19.52
0.40	8.61	8.97	9.33	10.71	13.18	14.42	16.42	24.68
0.50	8.74	9.24	9.82	11.55	15.38	17.29	19.64	30.28

Open and Distribute (PMOD)

a. DDU

Container	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
Half Tray	8.89	10.79	12.96	20.60	20.87	22.65	25.10	31.28
Full Tray	11.94	14.83	17.20	29.81	34.19	36.31	40.47	50.48
EMM Tray	13.63	16.16	19.87	32.93	36.11	39.61	44.00	54.90
Flat Tub	19.30	24.09	29.69	49.94	60.20	65.05	72.36	90.35

b. Processing Facilities

Container	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
Half Tray	7.13	8.92	10.86	18.64	19.04	20.79	22.29	27.77
Full Tray	9.10	11.62	14.37	25.88	30.52	32.64	36.43	45.44
EMM Tray	10.78	12.43	16.79	28.53	32.35	35.58	41.05	51.22
Flat Tub	15.25	20.03	25.27	45.82	55.88	60.79	66.82	83.44

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2115 Parcel Select

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2115.6 Prices

Destination Entered—DDU

a. DDU

Maximum weight (pounds)	DDU ($)
1	3.43
2	3.53
3	3.64
4	3.74
5	3.82
6	3.91
7	4.01
8	4.10
9	4.19
10	4.27
11	4.35
12	4.43
13	4.51
14	4.59
15	4.68
16	4.76
17	4.84
18	4.97
19	5.05
20	5.18
21	6.45
22	6.48
23	6.51
24	6.54
25	6.57
26	6.60
27	6.63
28	6.66
29	6.69
30	6.72
31	6.75
32	6.78
33	6.81
34	6.84
35	6.87
36	6.90
37	6.93
38	6.96
39	6.99
40	7.02
41	7.05
42	7.08
43	7.11
44	7.14
45	7.17
46	7.34
47	7.41
48	7.49
49	7.56
50	7.64
51	7.71
52	7.78
53	7.86
54	7.93
55	8.00
56	8.08
57	8.15
58	8.23
59	8.30
60	8.38
61	8.47
62	8.55
63	8.64
64	8.72
65	8.81
66	8.89
67	8.98
68	9.06

Maximum weight (pounds)	DDU ($)
69	9.14
70	9.23
Oversized	13.01

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Destination Entered—DSCF

a. DSCF—5-Digit Machinable

Maximum weight (pounds)	DSCF 5-digit ($)
1	4.77
2	4.95
3	5.12
4	5.30
5	5.44
6	5.67
7	5.79
8	5.96
9	6.13
10	6.31
11	6.48
12	6.65
13	6.82
14	7.00
15	7.17
16	7.34
17	7.52
18	7.69
19	7.86
20	8.03
21	8.21
22	8.38
23	8.55
24	8.72
25	8.90
26	9.07
27	9.24
28	9.41
29	9.59
30	9.77
31	9.95
32	10.13
33	10.32
34	10.50
35	10.68

b. DSCF—3-Digit, 5-Digit Non-Machinable

Maximum weight (pounds)	DSCF 3-digit ($)	DSCF 5-digit ($)
1	6.77	4.77
2	6.95	4.95
3	7.12	5.12
4	7.30	5.30
5	7.44	5.44
6	7.67	5.67
7	7.79	5.79
8	7.96	5.96
9	8.13	6.13
10	8.31	6.31
11	8.48	6.48
12	8.65	6.65
13	8.82	6.82
14	9.00	7.00
15	9.17	7.17

Maximum weight (pounds)	DSCF 3-digit ($)	DSCF 5-digit ($)
16	9.34	7.34
17	9.52	7.52
18	9.69	7.69
19	9.86	7.86
20	10.03	8.03
21	10.21	8.21
22	10.38	8.38
23	10.55	8.55
24	10.72	8.72
25	10.90	8.90
26	11.07	9.07
27	11.24	9.24
28	11.41	9.41
29	11.59	9.59
30	11.77	9.77
31	11.95	9.95
32	12.13	10.13
33	12.32	10.32
34	12.50	10.50
35	12.68	10.68
36	13.28	11.28
37	13.47	11.47
38	13.66	11.66
39	13.85	11.85
40	14.04	12.04
41	14.23	12.23
42	14.42	12.42
43	14.61	12.61
44	14.80	12.80
45	14.99	12.99
46	15.18	13.18
47	15.37	13.37
48	15.56	13.56
49	15.75	13.75
50	15.94	13.94
51	16.13	14.13
52	16.32	14.32
53	16.51	14.51
54	16.70	14.70
55	16.89	14.89
56	17.08	15.08
57	17.26	15.26
58	17.45	15.45
59	17.64	15.64
60	17.83	15.83
61	18.02	16.02
62	18.21	16.21
63	18.40	16.40
64	18.59	16.59
65	18.78	16.78
66	18.97	16.97
67	19.16	17.16
68	19.35	17.35
69	19.54	17.54
70	19.73	17.73
Oversized	25.80	25.80

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Destination Entered—DNDC

a. DNDC—Machinable

Maximum weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
1	6.38	7.22	8.18	9.54
2	6.66	7.70	8.82	10.23
3	6.94	8.19	9.45	10.93
4	7.22	8.67	10.09	11.63
5	7.39	9.03	10.58	12.32

Maximum weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
6	7.68	9.52	11.21	13.05
7	8.04	10.02	11.84	13.78
8	8.32	10.52	12.47	14.51
9	8.61	11.02	13.10	15.23
10	8.90	11.51	13.86	15.96
11	9.18	12.13	14.45	16.65
12	9.47	12.63	15.05	17.33
13	9.76	13.01	15.64	18.02
14	10.05	13.63	16.24	18.70
15	10.33	14.00	16.83	19.34
16	10.62	14.63	17.29	19.92
17	10.91	14.98	17.75	20.50
18	11.19	15.46	18.21	21.08
19	11.48	15.95	18.68	21.66
20	11.77	16.42	19.14	22.19
21	12.05	16.86	19.56	22.71
22	12.34	17.31	19.79	23.24
23	12.63	17.93	20.20	23.77
24	12.92	18.38	20.82	24.30
25	13.20	18.59	21.24	24.77
26	13.49	18.97	21.43	25.19
27	13.78	19.55	22.04	25.61
28	14.06	19.75	22.44	26.04
29	14.35	20.13	22.84	26.46
30	14.64	20.47	23.24	26.88
31	14.78	20.80	23.38	27.30
32	15.21	21.14	23.98	27.72
33	15.50	21.47	24.11	28.15
34	15.79	21.81	24.71	28.57
35	16.07	22.36	25.08	28.99

b. DNDC—Non-Machinable

Maximum weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
1	9.38	10.22	11.18	12.54
2	9.66	10.70	11.82	13.23
3	9.94	11.19	12.45	13.93
4	10.22	11.67	13.09	14.63
5	10.39	12.03	13.58	15.32
6	10.68	12.52	14.21	16.05
7	11.04	13.02	14.84	16.78
8	11.32	13.52	15.47	17.51
9	11.61	14.02	16.10	18.23
10	11.90	14.51	16.86	18.96
11	12.18	15.13	17.45	19.65
12	12.47	15.63	18.05	20.33
13	12.76	16.01	18.64	21.02
14	13.05	16.63	19.24	21.70
15	13.33	17.00	19.83	22.34
16	13.62	17.63	20.29	22.92
17	13.91	17.98	20.75	23.50
18	14.19	18.46	21.21	24.08
19	14.48	18.95	21.68	24.66
20	14.77	19.42	22.14	25.19
21	15.05	19.86	22.56	25.71
22	15.34	20.31	22.79	26.24
23	15.63	20.93	23.20	26.77
24	15.92	21.38	23.82	27.30
25	16.20	21.59	24.24	27.77
26	16.49	21.97	24.43	28.19
27	16.78	22.55	25.04	28.61
28	17.06	22.75	25.44	29.04
29	17.35	23.13	25.84	29.46
30	17.64	23.47	26.24	29.88
31	17.78	23.80	26.38	30.30
32	18.21	24.14	26.98	30.72
33	18.50	24.47	27.11	31.15
34	18.79	24.81	27.71	31.57

Maximum weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
35	19.07	25.36	28.08	31.99
36	19.99	26.51	29.34	32.58
37	20.29	26.86	29.71	33.00
38	20.58	27.21	30.08	33.42
39	20.88	27.56	30.45	33.84
40	21.17	27.90	30.82	34.24
41	21.47	28.25	31.17	34.65
42	21.76	28.60	31.53	35.05
43	22.06	28.95	31.89	35.45
44	22.35	29.30	32.25	35.85
45	22.65	29.64	32.61	36.25
46	22.95	29.99	32.97	36.65
47	23.24	30.34	33.33	37.05
48	23.54	30.69	33.69	37.45
49	23.83	31.04	34.04	37.85
50	24.12	31.37	34.40	38.23
51	24.40	31.71	34.74	38.61
52	24.69	32.05	35.08	38.99
53	24.97	32.39	35.42	39.37
54	25.26	32.73	35.75	39.75
55	25.54	33.05	36.09	40.13
56	25.83	33.37	36.43	40.51
57	26.11	33.69	36.77	40.89
58	26.40	34.00	37.10	41.27
59	26.68	34.32	37.44	41.65
60	26.96	34.63	37.78	42.01
61	27.25	34.95	38.10	42.37
62	27.53	35.27	38.41	42.73
63	27.82	35.58	38.73	43.09
64	28.10	35.90	39.04	43.44
65	28.39	36.22	39.36	43.80
66	28.67	36.52	39.68	44.14
67	28.96	36.83	39.99	44.48
68	29.24	37.14	40.31	44.82
69	29.53	37.44	40.63	45.15
70	29.81	37.75	40.94	45.49
Oversized	40.11	53.54	63.75	73.54

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Non-Destination Entered—Parcel Select Ground

a. Parcel Select Ground

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	7.32	7.65	7.86	8.05	8.18	8.30	8.52
2	7.94	8.14	8.42	9.01	10.19	10.69	11.29
3	8.14	8.53	8.89	9.74	12.30	13.59	15.79
4	8.24	8.75	9.37	10.53	14.31	16.16	18.19
5	8.34	8.80	9.69	10.84	16.29	18.56	21.06
6	8.45	8.84	9.80	14.38	18.62	21.55	24.57
7	8.69	9.99	10.04	16.09	20.61	24.28	27.60
8	8.75	10.47	11.79	17.55	22.62	26.73	30.99
9	9.58	10.86	12.27	18.80	24.60	28.94	34.45
10	10.06	11.40	12.46	20.50	26.82	32.13	37.83
11	11.60	13.83	14.80	22.77	29.30	35.60	41.72
12	12.30	14.69	17.19	24.38	31.96	38.50	44.78
13	12.92	15.52	17.98	25.67	34.29	40.05	46.36
14	13.57	16.36	18.92	27.16	36.21	42.28	48.66
15	14.09	17.20	19.83	28.54	37.60	43.09	49.93
16	14.69	18.27	21.08	30.23	40.10	45.94	53.18
17	15.15	19.10	22.07	31.70	42.13	48.32	56.00
18	15.44	19.68	23.05	33.11	44.35	50.70	58.80
19	15.79	20.13	23.57	33.98	46.33	53.05	61.10
20	16.40	20.44	24.04	34.60	47.53	55.03	64.10
21	17.11	20.92	24.59	35.21	47.90	55.55	65.27
22	17.64	21.48	25.40	35.91	48.23	55.98	66.02
23	18.16	21.98	26.00	36.56	48.49	56.36	66.41

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
24	18.89	22.90	27.46	37.99	49.51	57.83	68.03
25	19.60	23.70	29.18	39.26	50.24	59.27	69.21
26	20.77	25.39	32.20	41.34	51.46	60.73	71.38
27	21.99	26.52	34.14	45.04	52.15	62.14	74.05
28	22.65	26.87	35.10	46.21	52.86	63.58	76.83
29	23.34	27.14	36.04	46.82	53.74	65.04	78.90
30	24.02	27.53	36.88	47.46	55.24	66.46	80.59
31	24.69	27.80	37.45	48.06	56.04	67.93	82.24
32	24.97	28.38	38.07	48.62	56.77	69.39	83.92
33	25.35	29.16	39.01	49.26	57.87	70.82	85.46
34	25.58	29.91	39.99	50.32	59.24	72.27	87.06
35	25.86	30.61	40.56	51.38	60.82	73.72	88.56
36	26.18	31.49	41.09	52.49	62.35	74.72	90.06
37	26.45	32.07	41.68	53.42	63.98	75.67	91.54
38	26.71	32.84	42.20	54.48	65.75	76.54	92.99
39	26.96	33.60	42.68	55.60	67.30	78.55	94.43
40	27.24	34.30	43.23	56.76	68.38	80.31	95.72
41	27.53	34.87	43.69	57.26	69.53	82.02	97.10
42	27.73	35.13	44.07	58.22	70.75	83.14	98.43
43	28.05	35.39	44.46	59.18	72.44	84.17	99.69
44	28.24	35.64	44.84	60.13	73.59	85.17	100.81
45	28.42	35.89	45.24	61.09	74.40	86.09	102.09
46	28.67	36.15	45.63	62.05	75.23	87.02	103.32
47	28.88	36.40	46.01	63.01	76.01	88.01	104.46
48	29.12	36.66	46.40	63.96	76.99	88.85	105.57
49	29.34	36.90	46.79	64.92	78.04	89.78	106.64
50	29.46	37.16	47.18	65.88	79.13	90.92	107.76
51	29.89	37.42	47.55	67.00	80.21	92.22	108.76
52	30.33	37.68	47.94	67.47	80.99	93.61	110.05
53	30.89	37.92	48.33	68.02	81.67	95.14	111.45
54	31.33	38.19	48.71	68.61	82.25	96.50	113.01
55	31.82	38.43	49.10	69.04	82.93	98.03	114.53
56	32.25	38.69	49.49	69.56	83.48	99.41	115.70
57	32.76	38.94	49.88	69.97	84.11	100.92	116.72
58	33.25	39.19	50.26	70.41	84.61	102.25	117.69
59	33.72	39.45	50.64	70.84	85.09	102.95	118.55
60	34.14	39.70	51.03	71.23	85.51	103.55	119.40
61	34.69	39.95	51.42	71.59	85.99	104.15	121.00
62	35.11	40.21	51.80	71.90	86.39	104.61	122.93
63	35.74	40.47	52.20	72.28	86.88	105.11	124.90
64	36.05	40.71	52.58	72.60	87.27	105.59	126.81
65	36.57	40.97	52.98	72.82	87.52	106.12	128.79
66	37.04	41.23	53.35	73.15	87.96	106.44	130.66
67	37.59	41.48	54.25	73.41	88.24	106.86	132.40
68	38.03	41.73	54.93	73.61	89.35	107.42	133.80
69	38.54	41.99	55.63	73.83	90.42	107.92	135.21
70	38.94	42.24	56.50	74.06	91.51	108.31	136.67
Oversized	76.95	97.85	118.75	139.65	160.55	181.45	202.35

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Parcel Select Lightweight

Maximum weight (ounces)	Entry point/sortation level							
	DDU/5-digit ($)	DSCF/5-digit ($)	DNDC/5-digit ($)	DSCF/SCF ($)	DNDC/SCF ($)	DNDC/NDC ($)	None/NDC ($)	None/mixed NDC/single-piece ($)
1	2.05	2.35	2.57	2.58	2.96	3.21	3.58	3.97
2	2.05	2.35	2.57	2.58	2.96	3.21	3.58	3.97
3	2.05	2.35	2.57	2.58	2.96	3.21	3.58	3.97
4	2.05	2.35	2.57	2.58	2.96	3.21	3.58	3.97
5	2.06	2.38	2.62	2.64	3.07	3.33	3.72	4.12
6	2.06	2.38	2.62	2.64	3.07	3.33	3.72	4.12
7	2.06	2.38	2.62	2.64	3.07	3.33	3.72	4.12
8	2.06	2.38	2.62	2.64	3.07	3.33	3.72	4.12
9	2.18	2.61	3.12	3.16	3.66	3.98	4.41	4.84
10	2.18	2.61	3.12	3.16	3.66	3.98	4.41	4.84
11	2.18	2.61	3.12	3.16	3.66	3.98	4.41	4.84

PARCEL SELECT LIGHTWEIGHT—Continued

Maximum weight (ounces)	Entry point/sortation level							
	DDU/5-digit ($)	DSCF/5-digit ($)	DNDC/5-digit ($)	DSCF/SCF ($)	DNDC/SCF ($)	DNDC/NDC ($)	None/NDC ($)	None/mixed NDC/single-piece ($)
12	2.18	2.61	3.12	3.16	3.66	3.98	4.41	4.84
13	2.36	2.89	3.56	3.62	4.16	4.49	4.93	5.39
14	2.36	2.89	3.56	3.62	4.16	4.49	4.93	5.39
15	2.36	2.89	3.56	3.62	4.16	4.49	4.93	5.39
15.999	2.36	2.89	3.56	3.62	4.16	4.49	4.93	5.39

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2120 Parcel Return Service

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2120.6 Prices

RSCF Entered

a. Machinable RSCF

Maximum weight (pounds)	RSCF ($)
1	4.07
2	4.57
3	4.89
4	5.24
5	5.62
6	6.15
7	6.56
8	7.08
9	7.55
10	8.06
11	8.52
12	9.10
13	9.50
14	9.82
15	10.17
16	10.50
17	10.87
18	11.17
19	11.46
20	11.84
21	12.14
22	12.50
23	12.74
24	13.13
25	13.40
26	13.69
27	14.00
28	14.27
29	14.59
30	14.84
31	15.15
32	15.46
33	15.71
34	16.12
35	16.39

b. Nonmachinable RSCF

Maximum weight (pounds)	RSCF ($)
1	7.07
2	7.57
3	7.89
4	8.24
5	8.62
6	9.15
7	9.56
8	10.08

Maximum weight (pounds)	RSCF ($)
9	10.55
10	11.06
11	11.52
12	12.10
13	12.50
14	12.82
15	13.17
16	13.50
17	13.87
18	14.17
19	14.46
20	14.84
21	15.14
22	15.50
23	15.74
24	16.13
25	16.40
26	16.69
27	17.00
28	17.27
29	17.59
30	17.84
31	18.15
32	18.46
33	18.71
34	19.12
35	19.39
36	19.68
37	19.94
38	20.19
39	20.45
40	20.70
41	20.96
42	21.21
43	21.47
44	21.72
45	21.98
46	22.23
47	22.49
48	22.74
49	23.00
50	23.25
51	23.51
52	23.76
53	24.02
54	24.27
55	24.53
56	24.78
57	25.04
58	25.29
59	25.55
60	25.80
61	26.06
62	26.31
63	26.57
64	26.82
65	27.08
66	27.33
67	27.59
68	27.84
69	28.10
70	28.19
Oversized	39.86

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RDU Entered

a. Machinable RDU

Maximum weight (pounds)	RDU ($)
1	3.29
2	3.38
3	3.46
4	3.56
5	3.64
6	3.74
7	3.82
8	3.90
9	4.00
10	4.08
11	4.18
12	4.26
13	4.36
14	4.44
15	4.52
16	4.62
17	4.70
18	4.80
19	4.88
20	4.98
21	5.06
22	5.14
23	5.24
24	5.32
25	5.42
26	5.48
27	5.57
28	5.66
29	5.75
30	5.84
31	5.93
32	6.01
33	6.10
34	6.19
35	6.28

b. Nonmachinable RDU

Maximum weight (pounds)	RDU ($)
1	3.29
2	3.38
3	3.46
4	3.56
5	3.64
6	3.74
7	3.82
8	3.90
9	4.00
10	4.08
11	4.18
12	4.26
13	4.36
14	4.44
15	4.52
16	4.62
17	4.70
18	4.80
19	4.88
20	4.98
21	5.06
22	5.14
23	5.24
24	5.32
25	5.42
26	5.48
27	5.57
28	5.66
29	5.75
30	5.84

Maximum weight (pounds)	RDU ($)
31	5.93
32	6.01
33	6.10
34	6.19
35	6.28
36	6.37
37	6.46
38	6.54
39	6.63
40	6.72
41	6.81
42	6.90
43	6.99
44	7.07
45	7.16
46	7.25
47	7.34
48	7.43
49	7.52
50	7.60
51	7.69
52	7.78
53	7.87
54	7.96
55	8.05
56	8.13
57	8.22
58	8.31
59	8.40
60	8.49
61	8.58
62	8.66
63	8.75
64	8.84
65	8.93
66	9.02
67	9.10
68	9.19
69	9.28
70	9.37
Oversized	12.30

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2125 First-Class Package Service

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2125.6 Prices

COMMERCIAL

Maximum weight (ounces)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	2.99	3.01	3.03	3.09	3.18	3.30	3.43
2	2.99	3.01	3.03	3.09	3.18	3.30	3.43
3	2.99	3.01	3.03	3.09	3.18	3.30	3.43
4	2.99	3.01	3.03	3.09	3.18	3.30	3.43
5	3.46	3.48	3.5	3.56	3.64	3.77	3.92
6	3.46	3.48	3.5	3.56	3.64	3.77	3.92
7	3.46	3.48	3.5	3.56	3.64	3.77	3.92
8	3.46	3.48	3.5	3.56	3.64	3.77	3.92
9	4.18	4.22	4.25	4.33	4.43	4.57	4.71
10	4.18	4.22	4.25	4.33	4.43	4.57	4.71
11	4.18	4.22	4.25	4.33	4.43	4.57	4.71
12	4.18	4.22	4.25	4.33	4.43	4.57	4.71
13	5.29	5.33	5.37	5.52	5.65	5.79	5.95
14	5.29	5.33	5.37	5.52	5.65	5.79	5.95
15	5.29	5.33	5.37	5.52	5.65	5.79	5.95
15.999	5.29	5.33	5.37	5.52	5.65	5.79	5.95

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Part B

Competitive Products

2000 Competitive Product List

2100 Domestic Products

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2105 Priority Mail Express

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2105.6 Prices

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COMMERCIAL BASE ZONE/WEIGHT

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	22.75	23.30	24.05	26.35	28.25	30.05	32.45	43.95
1	23.00	25.20	27.45	31.20	33.65	35.65	38.05	51.50
2	23.25	27.05	30.90	36.00	39.05	41.20	43.60	59.05
3	23.50	28.95	34.30	40.85	44.40	46.80	49.20	66.55
4	23.75	30.80	37.75	45.65	49.80	52.35	54.75	74.10
5	24.00	32.70	41.15	50.50	55.20	57.95	60.35	81.65
6	26.45	35.95	45.70	55.55	60.40	63.55	66.15	89.50
7	28.90	39.20	50.30	60.60	65.60	69.15	71.95	97.35
8	31.40	42.50	54.85	65.60	70.75	74.75	77.75	105.20
9	33.85	45.75	59.45	70.65	75.95	80.35	83.55	113.05
10	36.30	49.00	64.00	75.70	81.15	85.95	89.35	120.90
11	38.20	52.90	67.90	79.60	84.90	89.90	93.55	126.55
12	40.10	56.80	71.75	83.55	88.70	93.85	97.70	132.20
13	42.05	60.70	75.65	87.45	92.45	97.80	101.90	137.90
14	43.95	64.60	79.55	91.40	96.20	101.75	106.05	143.55
15	45.85	68.50	83.45	95.30	100.00	105.65	110.20	149.20
16	47.75	72.35	87.30	99.20	103.75	109.60	114.40	154.85
17	49.65	76.25	91.20	103.15	107.50	113.55	118.55	160.50
18	51.60	80.15	95.10	107.05	111.25	117.50	122.75	166.20
19	53.50	84.05	98.95	111.00	115.05	121.45	126.90	171.85
20	55.40	87.95	102.85	114.90	118.80	125.40	131.10	177.50
21	57.35	91.90	106.75	119.15	123.15	129.90	135.85	183.95
22	59.35	95.85	110.65	123.45	127.50	134.45	140.60	190.40
23	61.30	99.80	114.50	127.70	131.80	138.95	145.40	196.85
24	63.30	103.75	118.40	132.00	136.15	143.45	150.15	203.25
25	65.25	107.70	122.30	136.25	140.50	147.95	154.90	209.70
26	67.20	111.65	126.20	140.50	144.85	152.50	159.65	216.15
27	69.20	115.60	130.10	144.80	149.20	157.00	164.40	222.60
28	71.15	119.55	133.95	149.05	153.50	161.50	169.20	229.05
29	73.15	123.50	137.85	153.35	157.85	166.00	173.95	235.50
30	75.10	127.45	141.75	157.60	162.20	170.55	178.70	241.95
31	77.05	131.40	145.65	161.85	166.55	175.05	183.45	248.40
32	79.05	135.35	149.55	166.15	170.90	179.55	188.20	254.80
33	81.00	139.30	153.40	170.40	175.20	184.05	193.00	261.25
34	83.00	143.25	157.30	174.70	179.55	188.60	197.75	267.70
35	84.95	147.20	161.20	178.95	183.90	193.10	202.50	274.15
36	87.15	151.10	165.60	183.75	188.95	198.30	207.90	281.50
37	89.00	154.85	169.85	188.35	193.95	203.50	213.35	288.85
38	91.10	158.75	174.15	193.10	198.75	208.50	218.65	296.05
39	93.35	162.65	178.55	197.75	203.40	213.30	224.10	303.45
40	95.35	166.30	182.90	202.55	208.35	218.45	229.55	310.80
41	97.25	170.25	187.15	207.10	213.40	223.65	234.90	318.00
42	98.95	174.15	191.40	211.75	218.40	228.80	240.20	325.25
43	101.25	177.90	195.65	216.35	223.25	233.80	245.70	332.60
44	103.05	181.80	200.00	221.05	228.05	238.75	251.00	339.85
45	105.05	185.65	204.15	225.55	232.95	243.85	256.50	347.30
46	107.10	189.40	208.70	230.40	237.80	248.80	261.85	354.55
47	109.35	193.25	212.90	235.00	242.70	253.85	267.25	361.85
48	111.25	197.20	217.10	239.45	247.60	258.90	272.65	369.15
49	113.20	200.90	221.45	244.15	252.65	264.10	278.10	376.55
50	115.65	204.85	225.80	248.90	257.40	268.90	283.45	383.75
51	117.65	208.75	230.05	253.45	262.20	273.90	288.10	390.05
52	119.70	212.40	234.25	258.00	267.30	279.05	294.30	398.50
53	121.60	216.35	238.65	262.65	272.20	284.10	299.70	405.75
54	123.80	220.25	242.85	267.15	277.05	289.15	305.05	413.05
55	126.25	225.30	247.30	271.90	281.90	294.05	310.40	420.30
56	128.90	229.20	251.50	276.40	286.75	299.05	315.85	427.65
57	131.10	233.05	255.80	281.00	291.60	304.05	321.20	434.85
58	133.35	236.75	260.05	285.50	296.60	309.10	326.60	442.15
59	135.20	240.60	264.30	290.10	301.60	314.15	331.95	449.45
60	137.00	244.45	268.65	294.65	306.45	319.10	337.35	456.75
61	138.95	248.40	273.15	299.45	311.35	324.10	342.75	464.05

COMMERCIAL BASE ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
62	141.10	252.10	277.30	303.85	316.15	328.95	348.25	471.50
63	143.45	255.95	281.60	308.45	321.10	334.10	353.70	478.85
64	145.35	259.75	285.80	312.90	326.05	339.10	359.10	486.15
65	147.85	263.60	290.10	317.45	330.90	343.95	364.40	493.35
66	150.60	267.55	294.50	322.15	335.80	349.00	369.75	500.55
67	152.35	271.30	298.85	326.75	340.55	353.80	375.20	507.95
68	154.35	275.15	303.10	331.15	345.65	359.00	380.70	515.45
69	156.80	279.05	307.35	335.70	350.40	363.85	385.85	522.45
70	159.65	282.90	311.70	340.25	355.35	368.80	391.30	529.80

COMMERCIAL BASE FLAT RATE ENVELOPE

	($)
Commercial Base Regular Flat Rate Envelope, per piece	22.75
Commercial Base Legal Flat Rate Envelope, per piece	22.95
Commercial Base Padded Flat Rate Envelope, per piece	23.25

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COMMERCIAL PLUS ZONE/WEIGHT

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	22.75	23.30	24.05	26.35	28.25	30.05	32.45	43.95
1	23.00	25.20	27.45	31.20	33.65	35.65	38.05	51.50
2	23.25	27.05	30.90	36.00	39.05	41.20	43.60	59.05
3	23.50	28.95	34.30	40.85	44.40	46.80	49.20	66.55
4	23.75	30.80	37.75	45.65	49.80	52.35	54.75	74.10
5	24.00	32.70	41.15	50.50	55.20	57.95	60.35	81.65
6	26.45	35.95	45.70	55.55	60.40	63.55	66.15	89.50
7	28.90	39.20	50.30	60.60	65.60	69.15	71.95	97.35
8	31.40	42.50	54.85	65.60	70.75	74.75	77.75	105.20
9	33.85	45.75	59.45	70.65	75.95	80.35	83.55	113.05
10	36.30	49.00	64.00	75.70	81.15	85.95	89.35	120.90
11	38.20	52.90	67.90	79.60	84.90	89.90	93.55	126.55
12	40.10	56.80	71.75	83.55	88.70	93.85	97.70	132.20
13	42.05	60.70	75.65	87.45	92.45	97.80	101.90	137.90
14	43.95	64.60	79.55	91.40	96.20	101.75	106.05	143.55
15	45.85	68.50	83.45	95.30	100.00	105.65	110.20	149.20
16	47.75	72.35	87.30	99.20	103.75	109.60	114.40	154.85
17	49.65	76.25	91.20	103.15	107.50	113.55	118.55	160.50
18	51.60	80.15	95.10	107.05	111.25	117.50	122.75	166.20
19	53.50	84.05	98.95	111.00	115.05	121.45	126.90	171.85
20	55.40	87.95	102.85	114.90	118.80	125.40	131.10	177.50
21	57.35	91.90	106.75	119.15	123.15	129.90	135.85	183.95
22	59.35	95.85	110.65	123.45	127.50	134.45	140.60	190.40
23	61.30	99.80	114.50	127.70	131.80	138.95	145.40	196.85
24	63.30	103.75	118.40	132.00	136.15	143.45	150.15	203.25
25	65.25	107.70	122.30	136.25	140.50	147.95	154.90	209.70
26	67.20	111.65	126.20	140.50	144.85	152.50	159.65	216.15
27	69.20	115.60	130.10	144.80	149.20	157.00	164.40	222.60
28	71.15	119.55	133.95	149.05	153.50	161.50	169.20	229.05
29	73.15	123.50	137.85	153.35	157.85	166.00	173.95	235.50
30	75.10	127.45	141.75	157.60	162.20	170.55	178.70	241.95
31	77.05	131.40	145.65	161.85	166.55	175.05	183.45	248.40
32	79.05	135.35	149.55	166.15	170.90	179.55	188.20	254.80
33	81.00	139.30	153.40	170.40	175.20	184.05	193.00	261.25
34	83.00	143.25	157.30	174.70	179.55	188.60	197.75	267.70
35	84.95	147.20	161.20	178.95	183.90	193.10	202.50	274.15
36	87.15	151.10	165.60	183.75	188.95	198.30	207.90	281.50
37	89.00	154.85	169.85	188.35	193.95	203.50	213.35	288.85
38	91.10	158.75	174.15	193.10	198.75	208.50	218.65	296.05
39	93.35	162.65	178.55	197.75	203.40	213.30	224.10	303.45
40	95.35	166.30	182.90	202.55	208.35	218.45	229.55	310.80
41	97.25	170.25	187.15	207.10	213.40	223.65	234.90	318.00

COMMERCIAL PLUS ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
42	98.95	174.15	191.40	211.75	218.40	228.80	240.20	325.25
43	101.25	177.90	195.65	216.35	223.25	233.80	245.70	332.60
44	103.05	181.80	200.00	221.05	228.05	238.75	251.00	339.85
45	105.05	185.65	204.15	225.55	232.95	243.85	256.50	347.30
46	107.10	189.40	208.70	230.40	237.80	248.80	261.85	354.55
47	109.35	193.25	212.90	235.00	242.70	253.85	267.25	361.85
48	111.25	197.20	217.10	239.45	247.60	258.90	272.65	369.15
49	113.20	200.90	221.45	244.15	252.65	264.10	278.10	376.55
50	115.65	204.85	225.80	248.90	257.40	268.90	283.45	383.75
51	117.65	208.75	230.05	253.45	262.20	273.90	288.10	390.05
52	119.70	212.40	234.25	258.00	267.30	279.05	294.30	398.50
53	121.60	216.35	238.65	262.65	272.20	284.10	299.70	405.75
54	123.80	220.25	242.85	267.15	277.05	289.15	305.05	413.05
55	126.25	225.30	247.30	271.90	281.90	294.05	310.40	420.30
56	128.90	229.20	251.50	276.40	286.75	299.05	315.85	427.65
57	131.10	233.05	255.80	281.00	291.60	304.05	321.20	434.85
58	133.35	236.75	260.05	285.50	296.60	309.10	326.60	442.15
59	135.20	240.60	264.30	290.10	301.60	314.15	331.95	449.45
60	137.00	244.45	268.65	294.65	306.45	319.10	337.35	456.75
61	138.95	248.40	273.15	299.45	311.35	324.10	342.75	464.05
62	141.10	252.10	277.30	303.85	316.15	328.95	348.25	471.50
63	143.45	255.95	281.60	308.45	321.10	334.10	353.70	478.85
64	145.35	259.75	285.80	312.90	326.05	339.10	359.10	486.15
65	147.85	263.60	290.10	317.45	330.90	343.95	364.40	493.35
66	150.60	267.55	294.50	322.15	335.80	349.00	369.75	500.55
67	152.35	271.30	298.85	326.75	340.55	353.80	375.20	507.95
68	154.35	275.15	303.10	331.15	345.65	359.00	380.70	515.45
69	156.80	279.05	307.35	335.70	350.40	363.85	385.85	522.45
70	159.65	282.90	311.70	340.25	355.35	368.80	391.30	529.80

COMMERCIAL PLUS FLAT RATE ENVELOPE

	($)
Commercial Plus Regular Flat Rate Envelope, per piece	22.75
Commercial Plus Legal Flat Rate Envelope, per piece	22.95
Commercial Plus Padded Flat Rate Envelope, per piece	23.25

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2110 Priority Mail

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2110.6 Prices

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COMMERCIAL BASE PRIORITY MAIL ZONE/WEIGHT

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
1	7.02	7.35	7.56	7.80	7.98	8.15	8.42	11.40
2	7.64	7.84	8.12	8.76	9.99	10.54	11.19	17.45
3	7.84	8.23	8.59	9.54	12.15	13.49	15.74	23.67
4	7.94	8.45	9.07	10.33	14.16	16.06	18.14	28.50
5	8.04	8.50	9.39	10.64	16.14	18.46	21.01	33.17
6	8.15	8.54	9.50	14.18	18.47	21.45	24.52	38.01
7	8.39	9.69	9.74	15.89	20.46	24.18	27.55	42.68
8	8.45	10.17	11.49	17.35	22.47	26.63	30.94	47.91
9	9.28	10.56	11.97	18.60	24.45	28.84	34.40	53.28
10	9.76	11.10	12.16	20.30	26.67	32.03	37.78	57.94
11	11.30	13.53	14.50	22.57	29.15	35.50	41.67	63.30
12	12.00	14.39	16.89	24.18	31.81	38.40	44.73	67.86
13	12.62	15.22	17.68	25.47	34.14	39.95	46.31	70.29
14	13.27	16.06	18.62	26.96	36.06	42.18	48.61	73.77
15	13.79	16.90	19.53	28.34	37.45	42.99	49.88	75.72
16	14.39	17.97	20.78	30.03	39.95	45.84	53.13	79.88
17	14.85	18.80	21.77	31.50	41.98	48.22	55.95	84.09
18	15.14	19.38	22.75	32.91	44.20	50.60	58.75	88.33
19	15.49	19.83	23.27	33.78	46.18	52.95	61.54	92.52
20	16.10	20.14	23.74	34.40	47.38	54.93	64.39	96.78

COMMERCIAL BASE PRIORITY MAIL ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
21	16.81	20.62	24.29	35.01	47.75	55.45	65.22	98.85
22	17.34	21.18	25.10	35.71	48.08	55.88	65.97	100.00
23	17.86	21.68	25.70	36.36	48.34	56.26	66.36	100.59
24	18.59	22.60	27.16	37.79	49.36	57.73	67.98	103.05
25	19.30	23.40	28.88	39.06	50.09	59.17	69.16	104.82
26	20.47	25.09	31.90	41.14	51.31	60.63	71.33	108.10
27	21.69	26.22	33.84	44.84	52.00	62.04	74.00	112.19
28	22.35	26.57	34.80	46.01	52.71	63.48	76.78	116.40
29	23.04	26.84	35.74	46.62	53.59	64.94	78.85	119.51
30	23.72	27.23	36.58	47.26	55.09	66.36	80.54	122.10
31	24.39	27.50	37.15	47.86	55.89	67.83	82.19	125.60
32	24.67	28.08	37.77	48.42	56.62	69.29	83.87	128.16
33	25.05	28.86	38.71	49.06	57.72	70.72	85.41	130.53
34	25.28	29.61	39.69	50.12	59.09	72.17	87.01	133.00
35	25.56	30.31	40.26	51.18	60.67	73.62	88.51	135.26
36	25.88	31.19	40.79	52.29	62.20	74.62	90.01	137.57
37	26.15	31.77	41.38	53.22	63.83	75.57	91.49	139.84
38	26.41	32.54	41.90	54.28	65.60	76.44	92.94	142.07
39	26.66	33.30	42.38	55.40	67.15	78.45	94.38	144.27
40	26.94	34.00	42.93	56.56	68.23	80.21	95.67	146.22
41	27.23	34.57	43.39	57.06	69.38	81.92	97.05	149.51
42	27.43	34.83	43.77	58.02	70.60	83.04	98.38	151.55
43	27.75	35.09	44.16	58.98	72.29	84.07	99.64	153.49
44	27.94	35.34	44.54	59.93	73.44	85.07	100.76	155.26
45	28.12	35.59	44.94	60.89	74.25	85.99	102.04	157.22
46	28.37	35.85	45.33	61.85	75.08	86.92	103.27	159.09
47	28.58	36.10	45.71	62.81	75.86	87.91	104.41	160.87
48	28.82	36.36	46.10	63.76	76.84	88.75	105.52	162.62
49	29.04	36.60	46.49	64.72	77.89	89.68	106.59	164.21
50	29.16	36.86	46.88	65.68	78.98	90.82	107.71	165.97
51	29.59	37.12	47.25	66.80	80.06	92.12	108.71	168.85
52	30.03	37.38	47.64	67.27	80.84	93.51	110.00	170.82
53	30.59	37.62	48.03	67.82	81.52	95.04	111.40	173.01
54	31.03	37.89	48.41	68.41	82.10	96.40	112.96	175.43
55	31.52	38.13	48.80	68.84	82.78	97.93	114.48	177.79
56	31.95	38.39	49.19	69.36	83.33	99.31	115.65	179.63
57	32.46	38.64	49.58	69.77	83.96	100.82	116.67	181.24
58	32.95	38.89	49.96	70.21	84.46	102.15	117.64	182.70
59	33.42	39.15	50.34	70.64	84.94	102.85	118.50	184.07
60	33.84	39.40	50.73	71.03	85.36	103.45	119.35	185.36
61	34.39	39.65	51.12	71.39	85.84	104.05	120.95	187.88
62	34.81	39.91	51.50	71.70	86.24	104.51	122.88	190.84
63	35.44	40.17	51.90	72.08	86.73	105.01	124.85	193.90
64	35.75	40.41	52.28	72.40	87.12	105.49	126.76	196.89
65	36.27	40.67	52.68	72.62	87.37	106.02	128.74	199.97
66	36.74	40.93	53.05	72.95	87.81	106.34	130.61	202.87
67	37.29	41.18	53.95	73.21	88.09	106.76	132.35	205.54
68	37.73	41.43	54.63	73.41	89.20	107.32	133.75	207.72
69	38.24	41.69	55.33	73.63	90.27	107.82	135.16	209.94
70	38.64	41.94	56.20	73.86	91.36	108.21	136.62	212.19

COMMERCIAL BASE FLAT RATE ENVELOPE

	($)
Commercial Base Regular Flat Rate Envelope, per piece	7.15
Commercial Base Legal Flat Rate Envelope, per piece	7.45
Commercial Base Padded Flat Rate Envelope, per piece	7.75

COMMERCIAL BASE FLAT RATE BOX

Size	Delivery to domestic address ($)	Delivery to APO/FPO/DPO address ($)
Small Flat Rate Box	7.65	7.65
Regular Flat Rate Boxes	13.20	13.20

COMMERCIAL BASE FLAT RATE BOX—Continued

Size	Delivery to domestic address ($)	Delivery to APO/FPO/DPO address ($)
Large Flat Rate Boxes	18.30	16.80

COMMERCIAL BASE REGIONAL RATE BOXES

Size	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
A	7.68	7.92	8.21	8.92	10.42	11.13	12.10	18.69
B	8.07	8.51	9.42	11.53	16.72	19.21	21.89	34.38

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COMMERCIAL PLUS PRIORITY MAIL ZONE/WEIGHT

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	7.02	7.35	7.56	7.80	7.98	8.15	8.42	11.40
1	7.02	7.35	7.56	7.80	7.98	8.15	8.42	11.40
2	7.64	7.84	8.12	8.76	9.99	10.54	11.19	17.45
3	7.84	8.23	8.59	9.54	12.15	13.49	15.74	23.67
4	7.94	8.45	9.07	10.33	14.16	16.06	18.14	28.50
5	8.04	8.50	9.39	10.64	16.14	18.46	21.01	33.17
6	8.15	8.54	9.50	14.18	18.47	21.45	24.52	38.01
7	8.39	9.69	9.74	15.89	20.46	24.18	27.55	42.68
8	8.45	10.17	11.49	17.35	22.47	26.63	30.94	47.91
9	9.28	10.56	11.97	18.60	24.45	28.84	34.40	53.28
10	9.76	11.10	12.16	20.30	26.67	32.03	37.78	57.94
11	11.30	13.53	14.50	22.57	29.15	35.50	41.67	63.30
12	12.00	14.39	16.89	24.18	31.81	38.40	44.73	67.86
13	12.62	15.22	17.68	25.47	34.14	39.95	46.31	70.29
14	13.27	16.06	18.62	26.96	36.06	42.18	48.61	73.77
15	13.79	16.90	19.53	28.34	37.45	42.99	49.88	75.72
16	14.39	17.97	20.78	30.03	39.95	45.84	53.13	79.88
17	14.85	18.80	21.77	31.50	41.98	48.22	55.95	84.09
18	15.14	19.38	22.75	32.91	44.20	50.60	58.75	88.33
19	15.49	19.83	23.27	33.78	46.18	52.95	61.54	92.52
20	16.10	20.14	23.74	34.40	47.38	54.93	64.39	96.78
21	16.81	20.62	24.29	35.01	47.75	55.45	65.22	98.85
22	17.34	21.18	25.10	35.71	48.08	55.88	65.97	100.00
23	17.86	21.68	25.70	36.36	48.34	56.26	66.36	100.59
24	18.59	22.60	27.16	37.79	49.36	57.73	67.98	103.05
25	19.30	23.40	28.88	39.06	50.09	59.17	69.16	104.82
26	20.47	25.09	31.90	41.14	51.31	60.63	71.33	108.10
27	21.69	26.22	33.84	44.84	52.00	62.04	74.00	112.19
28	22.35	26.57	34.80	46.01	52.71	63.48	76.78	116.40
29	23.04	26.84	35.74	46.62	53.59	64.94	78.85	119.51
30	23.72	27.23	36.58	47.26	55.09	66.36	80.54	122.10
31	24.39	27.50	37.15	47.86	55.89	67.83	82.19	125.60
32	24.67	28.08	37.77	48.42	56.62	69.29	83.87	128.16
33	25.05	28.86	38.71	49.06	57.72	70.72	85.41	130.53
34	25.28	29.61	39.69	50.12	59.09	72.17	87.01	133.00
35	25.56	30.31	40.26	51.18	60.67	73.62	88.51	135.26
36	25.88	31.19	40.79	52.29	62.20	74.62	90.01	137.57
37	26.15	31.77	41.38	53.22	63.83	75.57	91.49	139.84
38	26.41	32.54	41.90	54.28	65.60	76.44	92.94	142.07
39	26.66	33.30	42.38	55.40	67.15	78.45	94.38	144.27
40	26.94	34.00	42.93	56.56	68.23	80.21	95.67	146.22
41	27.23	34.57	43.39	57.06	69.38	81.92	97.05	149.51
42	27.43	34.83	43.77	58.02	70.60	83.04	98.38	151.55
43	27.75	35.09	44.16	58.98	72.29	84.07	99.64	153.49
44	27.94	35.34	44.54	59.93	73.44	85.07	100.76	155.26
45	28.12	35.59	44.94	60.89	74.25	85.99	102.04	157.22
46	28.37	35.85	45.33	61.85	75.08	86.92	103.27	159.09

COMMERCIAL PLUS PRIORITY MAIL ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
47	28.58	36.10	45.71	62.81	75.86	87.91	104.41	160.87
48	28.82	36.36	46.10	63.76	76.84	88.75	105.52	162.62
49	29.04	36.60	46.49	64.72	77.89	89.68	106.59	164.21
50	29.16	36.86	46.88	65.68	78.98	90.82	107.71	165.97
51	29.59	37.12	47.25	66.80	80.06	92.12	108.71	168.85
52	30.03	37.38	47.64	67.27	80.84	93.51	110.00	170.82
53	30.59	37.62	48.03	67.82	81.52	95.04	111.40	173.01
54	31.03	37.89	48.41	68.41	82.10	96.40	112.96	175.43
55	31.52	38.13	48.80	68.84	82.78	97.93	114.48	177.79
56	31.95	38.39	49.19	69.36	83.33	99.31	115.65	179.63
57	32.46	38.64	49.58	69.77	83.96	100.82	116.67	181.24
58	32.95	38.89	49.96	70.21	84.46	102.15	117.64	182.70
59	33.42	39.15	50.34	70.64	84.94	102.85	118.50	184.07
60	33.84	39.40	50.73	71.03	85.36	103.45	119.35	185.36
61	34.39	39.65	51.12	71.39	85.84	104.05	120.95	187.88
62	34.81	39.91	51.50	71.70	86.24	104.51	122.88	190.84
63	35.44	40.17	51.90	72.08	86.73	105.01	124.85	193.90
64	35.75	40.41	52.28	72.40	87.12	105.49	126.76	196.89
65	36.27	40.67	52.68	72.62	87.37	106.02	128.74	199.97
66	36.74	40.93	53.05	72.95	87.81	106.34	130.61	202.87
67	37.29	41.18	53.95	73.21	88.09	106.76	132.35	205.54
68	37.73	41.43	54.63	73.41	89.20	107.32	133.75	207.72
69	38.24	41.69	55.33	73.63	90.27	107.82	135.16	209.94
70	38.64	41.94	56.20	73.86	91.36	108.21	136.62	212.19

COMMERCIAL PLUS FLAT RATE ENVELOPE

	($)
Commercial Plus Regular Flat Rate Envelope, per piece	7.15
Commercial Plus Legal Flat Rate Envelope, per piece	7.45
Commercial Plus Padded Flat Rate Envelope, per piece	7.75

COMMERCIAL PLUS FLAT RATE BOX

Size	Delivery to domestic address ($)	Delivery to APO/FPO/DPO address ($)
Small Flat Rate Box	7.65	7.65
Medium Flat Rate Boxes	13.20	13.20
Large Flat Rate Boxes	18.30	16.80

COMMERCIAL PLUS REGIONAL RATE BOXES

Maximum cubic feet	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
A	7.68	7.92	8.21	8.92	10.42	11.13	12.10	18.69
B	8.07	8.51	9.42	11.53	16.72	19.21	21.89	34.38

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COMMERCIAL PLUS CUBIC

Maximum cubic feet	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.10	7.02	7.35	7.56	7.80	7.98	8.15	8.42	11.40
0.20	7.46	7.80	8.02	8.71	9.00	9.22	9.56	13.15
0.30	8.04	8.26	8.55	9.65	10.98	11.58	12.29	19.12
0.40	8.21	8.57	8.93	10.31	12.78	14.02	16.02	24.28

COMMERCIAL PLUS CUBIC—Continued

Maximum cubic feet	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.50	8.34	8.84	9.42	11.15	14.98	16.89	19.24	29.88

Open and Distribute (PMOD)

a. DDU

Container	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
Half Tray	8.49	10.39	12.56	20.20	20.47	22.25	24.70	30.88
Full Tray	11.54	14.43	16.80	29.41	33.79	35.91	40.07	50.08
EMM Tray	13.23	15.76	19.47	32.53	35.71	39.21	43.60	54.50
Flat Tub	18.90	23.69	29.29	49.54	59.80	64.65	71.96	89.95

b. Processing Facilities

Container	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
Half Tray	6.73	8.52	10.46	18.24	18.64	20.39	21.89	27.37
Full Tray	8.70	11.22	13.97	25.48	30.12	32.24	36.03	45.04
EMM Tray	10.38	12.03	16.39	28.13	31.95	35.18	40.65	50.82
Flat Tub	14.85	19.63	24.87	45.42	55.48	60.39	66.42	83.04

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2115 Parcel Select

* * *

2115.6 Prices

Destination Entered—DDU

a. DDU

Maximum weight (pounds)	DDU ($)
1	3.19
2	3.29
3	3.40
4	3.50
5	3.58
6	3.67
7	3.77
8	3.86
9	3.95
10	4.03
11	4.11
12	4.19
13	4.27
14	4.35
15	4.44
16	4.52
17	4.60
18	4.73
19	4.81
20	4.94
21	6.21
22	6.24
23	6.27
24	6.30
25	6.33
26	6.36
27	6.39
28	6.42
29	6.45
30	6.48
31	6.51

Maximum weight (pounds)	DDU ($)
32	6.54
33	6.57
34	6.60
35	6.63
36	6.66
37	6.69
38	6.72
39	6.75
40	6.78
41	6.81
42	6.84
43	6.87
44	6.90
45	6.93
46	7.10
47	7.17
48	7.25
49	7.32
50	7.40
51	7.47
52	7.54
53	7.62
54	7.69
55	7.76
56	7.84
57	7.91
58	7.99
59	8.06
60	8.14
61	8.23
62	8.31
63	8.40
64	8.48
65	8.57
66	8.65
67	8.74
68	8.82
69	8.90
70	8.99
Oversized	12.77

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Destination Entered—DSCF

a. DSCF—5-Digit Machinable

Maximum weight (pounds)	DSCF 5-digit ($)
1	4.37
2	4.55
3	4.72
4	4.90
5	5.04
6	5.27
7	5.39
8	5.56
9	5.73
10	5.91
11	6.08
12	6.25
13	6.42
14	6.60
15	6.77
16	6.94
17	7.12
18	7.29
19	7.46
20	7.63
21	7.81
22	7.98

Maximum weight (pounds)	DSCF 5-digit ($)
23	8.15
24	8.32
25	8.50
26	8.67
27	8.84
28	9.01
29	9.19
30	9.37
31	9.55
32	9.73
33	9.92
34	10.10
35	10.28

b. DSCF—3-Digit, 5-Digit Non-Machinable

Maximum weight (pounds)	DSCF 3-digit ($)	DSCF 5-digit ($)
1	6.37	4.37
2	6.55	4.55
3	6.72	4.72
4	6.90	4.90
5	7.04	5.04
6	7.27	5.27
7	7.39	5.39
8	7.56	5.56
9	7.73	5.73
10	7.91	5.91
11	8.08	6.08
12	8.25	6.25
13	8.42	6.42
14	8.60	6.60
15	8.77	6.77
16	8.94	6.94
17	9.12	7.12
18	9.29	7.29
19	9.46	7.46
20	9.63	7.63
21	9.81	7.81
22	9.98	7.98
23	10.15	8.15
24	10.32	8.32
25	10.50	8.50
26	10.67	8.67
27	10.84	8.84
28	11.01	9.01
29	11.19	9.19
30	11.37	9.37
31	11.55	9.55
32	11.73	9.73
33	11.92	9.92
34	12.10	10.10
35	12.28	10.28
36	12.88	10.88
37	13.07	11.07
38	13.26	11.26
39	13.45	11.45
40	13.64	11.64
41	13.83	11.83
42	14.02	12.02
43	14.21	12.21
44	14.40	12.40
45	14.59	12.59
46	14.78	12.78
47	14.97	12.97
48	15.16	13.16
49	15.35	13.35
50	15.54	13.54
51	15.73	13.73

Maximum weight (pounds)	DSCF 3-digit ($)	DSCF 5-digit ($)
52	15.92	13.92
53	16.11	14.11
54	16.30	14.30
55	16.49	14.49
56	16.68	14.68
57	16.86	14.86
58	17.05	15.05
59	17.24	15.24
60	17.43	15.43
61	17.62	15.62
62	17.81	15.81
63	18.00	16.00
64	18.19	16.19
65	18.38	16.38
66	18.57	16.57
67	18.76	16.76
68	18.95	16.95
69	19.14	17.14
70	19.33	17.33
Oversized	25.40	25.40

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Destination Entered—DNDC

a. DNDC—Machinable

Maximum weight (pounds)	DNDC zones 1 & 2 ($)	DNDC zone 3 ($)	DNDC zone 4 ($)	DNDC zone 5 ($)
1	5.98	6.82	7.78	9.14
2	6.26	7.30	8.42	9.83
3	6.54	7.79	9.05	10.53
4	6.82	8.27	9.69	11.23
5	6.99	8.63	10.18	11.92
6	7.28	9.12	10.81	12.65
7	7.64	9.62	11.44	13.38
8	7.92	10.12	12.07	14.11
9	8.21	10.62	12.70	14.83
10	8.50	11.11	13.46	15.56
11	8.78	11.73	14.05	16.25
12	9.07	12.23	14.65	16.93
13	9.36	12.61	15.24	17.62
14	9.65	13.23	15.84	18.30
15	9.93	13.60	16.43	18.94
16	10.22	14.23	16.89	19.52
17	10.51	14.58	17.35	20.10
18	10.79	15.06	17.81	20.68
19	11.08	15.55	18.28	21.26
20	11.37	16.02	18.74	21.79
21	11.65	16.46	19.16	22.31
22	11.94	16.91	19.39	22.84
23	12.23	17.53	19.80	23.37
24	12.52	17.98	20.42	23.90
25	12.80	18.19	20.84	24.37
26	13.09	18.57	21.03	24.79
27	13.38	19.15	21.64	25.21
28	13.66	19.35	22.04	25.64
29	13.95	19.73	22.44	26.06
30	14.24	20.07	22.84	26.48
31	14.38	20.40	22.98	26.90
32	14.81	20.74	23.58	27.32
33	15.10	21.07	23.71	27.75
34	15.39	21.41	24.31	28.17
35	15.67	21.96	24.68	28.59

b. DNDC—Non-Machinable

Maximum weight (pounds)	DNDC zones 1 & 2 ($)	DNDC zone 3 ($)	DNDC zone 4 ($)	DNDC zone 5 ($)
1	8.98	9.82	10.78	12.14
2	9.26	10.30	11.42	12.83
3	9.54	10.79	12.05	13.53
4	9.82	11.27	12.69	14.23
5	9.99	11.63	13.18	14.92
6	10.28	12.12	13.81	15.65
7	10.64	12.62	14.44	16.38
8	10.92	13.12	15.07	17.11
9	11.21	13.62	15.70	17.83
10	11.50	14.11	16.46	18.56
11	11.78	14.73	17.05	19.25
12	12.07	15.23	17.65	19.93
13	12.36	15.61	18.24	20.62
14	12.65	16.23	18.84	21.30
15	12.93	16.60	19.43	21.94
16	13.22	17.23	19.89	22.52
17	13.51	17.58	20.35	23.10
18	13.79	18.06	20.81	23.68
19	14.08	18.55	21.28	24.26
20	14.37	19.02	21.74	24.79
21	14.65	19.46	22.16	25.31
22	14.94	19.91	22.39	25.84
23	15.23	20.53	22.80	26.37
24	15.52	20.98	23.42	26.90
25	15.80	21.19	23.84	27.37
26	16.09	21.57	24.03	27.79
27	16.38	22.15	24.64	28.21
28	16.66	22.35	25.04	28.64
29	16.95	22.73	25.44	29.06
30	17.24	23.07	25.84	29.48
31	17.38	23.40	25.98	29.90
32	17.81	23.74	26.58	30.32
33	18.10	24.07	26.71	30.75
34	18.39	24.41	27.31	31.17
35	18.67	24.96	27.68	31.59
36	19.59	26.11	28.94	32.18
37	19.89	26.46	29.31	32.60
38	20.18	26.81	29.68	33.02
39	20.48	27.16	30.05	33.44
40	20.77	27.50	30.42	33.84
41	21.07	27.85	30.77	34.25
42	21.36	28.20	31.13	34.65
43	21.66	28.55	31.49	35.05
44	21.95	28.90	31.85	35.45
45	22.25	29.24	32.21	35.85
46	22.55	29.59	32.57	36.25
47	22.84	29.94	32.93	36.65
48	23.14	30.29	33.29	37.05
49	23.43	30.64	33.64	37.45
50	23.72	30.97	34.00	37.83
51	24.00	31.31	34.34	38.21
52	24.29	31.65	34.68	38.59
53	24.57	31.99	35.02	38.97
54	24.86	32.33	35.35	39.35
55	25.14	32.65	35.69	39.73
56	25.43	32.97	36.03	40.11
57	25.71	33.29	36.37	40.49
58	26.00	33.60	36.70	40.87
59	26.28	33.92	37.04	41.25
60	26.56	34.23	37.38	41.61
61	26.85	34.55	37.70	41.97
62	27.13	34.87	38.01	42.33
63	27.42	35.18	38.33	42.69
64	27.70	35.50	38.64	43.04
65	27.99	35.82	38.96	43.40
66	28.27	36.12	39.28	43.74
67	28.56	36.43	39.59	44.08
68	28.84	36.74	39.91	44.42
69	29.13	37.04	40.23	44.75
70	29.41	37.35	40.54	45.09
Oversized	39.71	53.14	63.35	73.14

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Non-Destination Entered—Parcel Select Ground

a. Parcel Select Ground

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	6.92	7.25	7.46	7.65	7.78	7.90	8.12
2	7.54	7.74	8.02	8.61	9.79	10.29	10.89
3	7.74	8.13	8.49	9.34	11.90	13.19	15.39
4	7.84	8.35	8.97	10.13	13.91	15.76	17.79
5	7.94	8.40	9.29	10.44	15.89	18.16	20.66
6	8.05	8.44	9.40	13.98	18.22	21.15	24.17
7	8.29	9.59	9.64	15.69	20.21	23.88	27.20
8	8.35	10.07	11.39	17.15	22.22	26.33	30.59
9	9.18	10.46	11.87	18.40	24.20	28.54	34.05
10	9.66	11.00	12.06	20.10	26.42	31.73	37.43
11	11.20	13.43	14.40	22.37	28.90	35.20	41.32
12	11.90	14.29	16.79	23.98	31.56	38.10	44.38
13	12.52	15.12	17.58	25.27	33.89	39.65	45.96
14	13.17	15.96	18.52	26.76	35.81	41.88	48.26
15	13.69	16.80	19.43	28.14	37.20	42.69	49.53
16	14.29	17.87	20.68	29.83	39.70	45.54	52.78
17	14.75	18.70	21.67	31.30	41.73	47.92	55.60
18	15.04	19.28	22.65	32.71	43.95	50.30	58.40
19	15.39	19.73	23.17	33.58	45.93	52.65	61.10
20	16.00	20.04	23.64	34.20	47.13	54.63	64.04
21	16.71	20.52	24.19	34.81	47.50	55.15	64.87
22	17.24	21.08	25.00	35.51	47.83	55.58	65.62
23	17.76	21.58	25.60	36.16	48.09	55.96	66.01
24	18.49	22.50	27.06	37.59	49.11	57.43	67.63
25	19.20	23.30	28.78	38.86	49.84	58.87	68.81
26	20.37	24.99	31.80	40.94	51.06	60.33	70.98
27	21.59	26.12	33.74	44.64	51.75	61.74	73.65
28	22.25	26.47	34.70	45.81	52.46	63.18	76.43
29	22.94	26.74	35.64	46.42	53.34	64.64	78.50
30	23.62	27.13	36.48	47.06	54.84	66.06	80.19
31	24.29	27.40	37.05	47.66	55.64	67.53	81.84
32	24.57	27.98	37.67	48.22	56.37	68.99	83.52
33	24.95	28.76	38.61	48.86	57.47	70.42	85.06
34	25.18	29.51	39.59	49.92	58.84	71.87	86.66
35	25.46	30.21	40.16	50.98	60.42	73.32	88.16
36	25.78	31.09	40.69	52.09	61.95	74.32	89.66
37	26.05	31.67	41.28	53.02	63.58	75.27	91.14
38	26.31	32.44	41.80	54.08	65.35	76.14	92.59
39	26.56	33.20	42.28	55.20	66.90	78.15	94.03
40	26.84	33.90	42.83	56.36	67.98	79.91	95.32
41	27.13	34.47	43.29	56.86	69.13	81.62	96.70
42	27.33	34.73	43.67	57.82	70.35	82.74	98.03
43	27.65	34.99	44.06	58.78	72.04	83.77	99.29
44	27.84	35.24	44.44	59.73	73.19	84.77	100.41
45	28.02	35.49	44.84	60.69	74.00	85.69	101.69
46	28.27	35.75	45.23	61.65	74.83	86.62	102.92
47	28.48	36.00	45.61	62.61	75.61	87.61	104.06
48	28.72	36.26	46.00	63.56	76.59	88.45	105.17
49	28.94	36.50	46.39	64.52	77.64	89.38	106.24
50	29.06	36.76	46.78	65.48	78.73	90.52	107.36
51	29.49	37.02	47.15	66.60	79.81	91.82	108.36
52	29.93	37.28	47.54	67.07	80.59	93.21	109.65
53	30.49	37.52	47.93	67.62	81.27	94.74	111.05
54	30.93	37.79	48.31	68.21	81.85	96.10	112.61
55	31.42	38.03	48.70	68.64	82.53	97.63	114.13
56	31.85	38.29	49.09	69.16	83.08	99.01	115.30
57	32.36	38.54	49.48	69.57	83.71	100.52	116.32
58	32.85	38.79	49.86	70.01	84.21	101.85	117.29
59	33.32	39.05	50.24	70.44	84.69	102.55	118.15
60	33.74	39.30	50.63	70.83	85.11	103.15	119.00
61	34.29	39.55	51.02	71.19	85.59	103.75	120.60
62	34.71	39.81	51.40	71.50	85.99	104.21	122.53
63	35.34	40.07	51.80	71.88	86.48	104.71	124.50
64	35.65	40.31	52.18	72.20	86.87	105.19	126.41
65	36.17	40.57	52.58	72.42	87.12	105.72	128.39
66	36.64	40.83	52.95	72.75	87.56	106.04	130.26
67	37.19	41.08	53.85	73.01	87.84	106.46	132.00

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
68	37.63	41.33	54.53	73.21	88.95	107.02	133.40
69	38.14	41.59	55.23	73.43	90.02	107.52	134.81
70	38.54	41.84	56.10	73.66	91.11	107.91	136.27
Oversized	76.95	97.85	118.75	139.65	160.55	181.45	202.35

* * *

Parcel Select Lightweight

Maximum weight (ounces)	Entry point/sortation level							
	DDU/5-digit ($)	DSCF/5-digit ($)	DNDC/5-digit ($)	DSCF/SCF ($)	DNDC/SCF ($)	DNDC/NDC ($)	None/NDC ($)	None/mixed NDC/single-piece ($)
1	1.81	2.11	2.33	2.34	2.72	2.97	3.34	3.73
2	1.81	2.11	2.33	2.34	2.72	2.97	3.34	3.73
3	1.81	2.11	2.33	2.34	2.72	2.97	3.34	3.73
4	1.81	2.11	2.33	2.34	2.72	2.97	3.34	3.73
5	1.82	2.14	2.38	2.40	2.83	3.09	3.48	3.88
6	1.82	2.14	2.38	2.40	2.83	3.09	3.48	3.88
7	1.82	2.14	2.38	2.40	2.83	3.09	3.48	3.88
8	1.82	2.14	2.38	2.40	2.83	3.09	3.48	3.88
9	1.94	2.37	2.88	2.92	3.42	3.74	4.17	4.60
10	1.94	2.37	2.88	2.92	3.42	3.74	4.17	4.60
11	1.94	2.37	2.88	2.92	3.42	3.74	4.17	4.60
12	1.94	2.37	2.88	2.92	3.42	3.74	4.17	4.60
13	2.12	2.65	3.32	3.38	3.92	4.25	4.69	5.15
14	2.12	2.65	3.32	3.38	3.92	4.25	4.69	5.15
15	2.12	2.65	3.32	3.38	3.92	4.25	4.69	5.15
15.999	2.12	2.65	3.32	3.38	3.92	4.25	4.69	5.15

* * *

2120 Parcel Return Service

* * *

2120.6 Prices

RSCF Entered

a. Machinable RSCF

Maximum weight (pounds)	RSCF ($)
1	3.83
2	4.33
3	4.65
4	5.00
5	5.38
6	5.91
7	6.32
8	6.84
9	7.31
10	7.82
11	8.28
12	8.86
13	9.26
14	9.58
15	9.93
16	10.26
17	10.63
18	10.93
19	11.22
20	11.60
21	11.90
22	12.26
23	12.50
24	12.89
25	13.16
26	13.45
27	13.76
28	14.03
29	14.35

Maximum weight (pounds)	RSCF ($)
30	14.60
31	14.91
32	15.22
33	15.47
34	15.88
35	16.15

b. Nonmachinable RSCF

Maximum weight (pounds)	RSCF ($)
1	6.83
2	7.33
3	7.65
4	8.00
5	8.38
6	8.91
7	9.32
8	9.84
9	10.31
10	10.82
11	11.28
12	11.86
13	12.26
14	12.58
15	12.93
16	13.26
17	13.63
18	13.93
19	14.22
20	14.60
21	14.90
22	15.26
23	15.50
24	15.89
25	16.16
26	16.45
27	16.76
28	17.03
29	17.35
30	17.60
31	17.91
32	18.22
33	18.47
34	18.88
35	19.15
36	19.44
37	19.70
38	19.95
39	20.21
40	20.46
41	20.72
42	20.97
43	21.23
44	21.48
45	21.74
46	21.99
47	22.25
48	22.50
49	22.76
50	23.01
51	23.27
52	23.52
53	23.78
54	24.03
55	24.29
56	24.54
57	24.80
58	25.05
59	25.31
60	25.56

Maximum weight (pounds)	RSCF ($)
61	25.82
62	26.07
63	26.33
64	26.58
65	26.84
66	27.09
67	27.35
68	27.60
69	27.86
70	27.95
Oversized	39.62

* * *

RDU Entered

a. Machinable RDU

Maximum weight (pounds)	RDU ($)
1	3.05
2	3.14
3	3.22
4	3.32
5	3.40
6	3.50
7	3.58
8	3.66
9	3.76
10	3.84
11	3.94
12	4.02
13	4.12
14	4.20
15	4.28
16	4.38
17	4.46
18	4.56
19	4.64
20	4.74
21	4.82
22	4.90
23	5.00
24	5.08
25	5.18
26	5.24
27	5.33
28	5.42
29	5.51
30	5.60
31	5.69
32	5.77
33	5.86
34	5.95
35	6.04

b. Nonmachinable RDU

Maximum weight (pounds)	RDU ($)
1	3.05
2	3.14
3	3.22
4	3.32
5	3.40
6	3.50
7	3.58
8	3.66

Maximum weight (pounds)	RDU ($)
9	3.76
10	3.84
11	3.94
12	4.02
13	4.12
14	4.20
15	4.28
16	4.38
17	4.46
18	4.56
19	4.64
20	4.74
21	4.82
22	4.90
23	5.00
24	5.08
25	5.18
26	5.24
27	5.33
28	5.42
29	5.51
30	5.60
31	5.69
32	5.77
33	5.86
34	5.95
35	6.04
36	6.13
37	6.22
38	6.30
39	6.39
40	6.48
41	6.57
42	6.66
43	6.75
44	6.83
45	6.92
46	7.01
47	7.10
48	7.19
49	7.28
50	7.36
51	7.45
52	7.54
53	7.63
54	7.72
55	7.81
56	7.89
57	7.98
58	8.07
59	8.16
60	8.25
61	8.34
62	8.42
63	8.51
64	8.60
65	8.69
66	8.78
67	8.86
68	8.95
69	9.04
70	9.13
Oversized	12.06

* * *

2125 First-Class Package Service

* * *

2125.6 Prices

Commercial

Maximum weight (ounces)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	2.74	2.76	2.78	2.84	2.93	3.05	3.18
2	2.74	2.76	2.78	2.84	2.93	3.05	3.18
3	2.74	2.76	2.78	2.84	2.93	3.05	3.18
4	2.74	2.76	2.78	2.84	2.93	3.05	3.18
5	3.21	3.23	3.25	3.31	3.39	3.52	3.67
6	3.21	3.23	3.25	3.31	3.39	3.52	3.67
7	3.21	3.23	3.25	3.31	3.39	3.52	3.67
8	3.21	3.23	3.25	3.31	3.39	3.52	3.67
9	3.93	3.97	4.00	4.08	4.18	4.32	4.46
10	3.93	3.97	4.00	4.08	4.18	4.32	4.46
11	3.93	3.97	4.00	4.08	4.18	4.32	4.46
12	3.93	3.97	4.00	4.08	4.18	4.32	4.46
13	5.04	5.08	5.12	5.27	5.40	5.54	5.70
14	5.04	5.08	5.12	5.27	5.40	5.54	5.70
15	5.04	5.08	5.12	5.27	5.40	5.54	5.70
15.999	5.04	5.08	5.12	5.27	5.40	5.54	5.70

* * *

[FR Doc. 2020–18325 Filed 8–20–20; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collections of information to determine (1) the practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

Title and purpose of information collection: Railroad Unemployment Insurance Act Applications; OMB 3220–0039.

Under Section 2 of the Railroad Unemployment Insurance Act (RUIA) (45 U.S.C. 362), sickness benefits are payable to qualified railroad employees who are unable to work because of illness or injury. In addition, sickness benefits are payable to qualified female employees if they are unable to work, or if working would be injurious, because of pregnancy, miscarriage, or childbirth. Under Section 1(k) of the RUIA a statement of sickness, with respect to days of sickness of an employee, is to be filed with the RRB within a 10-day period from the first day claimed as a day of sickness. The Railroad Retirement Board's (RRB) authority for requesting supplemental medical information is Section 12(i) and 12(n) of the RUIA. The procedures for claiming sickness benefits and for the RRB to obtain supplemental medical information needed to determine a claimant's eligibility for such benefits are prescribed in 20 CFR part 335.

The forms currently used by the RRB to obtain information needed to determine eligibility for, and the amount of, sickness benefits due a claimant follow: Form SI–1a, Application for Sickness Benefits; Form SI–1b, Statement of Sickness; Form SI–3, Claim for Sickness Benefits; Form SI–7, Supplemental Doctor's Statement; Form SI–8, Verification of Medical Information; and Form ID–11A, Requesting Reason for Late Filing of Sickness Benefit. Completion is required to obtain or retain benefits. One response is requested of each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (85 36888 on June 18, 2020) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Railroad Unemployment Insurance Act Applications.

OMB Control Number: 3220–0039.

Form(s) submitted: SI–1a, SI–1b, SI–3, SI–3 (internet), SI–7, SI–8, and ID–11A.

Type of request: Revision of a currently approved collection.

Affected public: Individuals or Households.

Abstract: Under Section 2 of the Railroad Unemployment Insurance Act sickness benefits are payable to qualified railroad employees who are unable to work because of illness or injury. The collection obtains information from railroad employees and physicians needed to determine eligibility to and the amount of such benefits.

Changes proposed: The RRB proposes no changes to Form SI–1a, Form SI–3 (Manual), SI–7, SI–8, and ID–11a; minor non-burden impacting changes to the Form SI–1b to include update to the officer title and RRB zip code in the Paperwork Reduction Act/Privacy Act Notices section; and minor non-burden impacting changes to the Form SI–3 (internet) to include update to the officer title and RRB zip code in the Paperwork Reduction Act/Privacy Act Notices section, update the ''Estimation Completion Time'' to 5 minutes, and update zip code on page's 6 and page 7.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
SI–1a (Employee)	15,700	10	2,617

Form No.	Annual responses	Time (minutes)	Burden (hours)
SI–1b (Doctor)	15,700	8	2,093
SI–3 (Manual)	131,600	5	10,967
SI–3 (internet)	61,350	5	5,113
SI–7	20,830	8	2,777
SI–8	26	5	2
ID–11A	518	4	35
Total	245,724		23,604

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Kennisha Tucker at (312) 469–2591 or *Kennisha.Tucker@rrb.gov.* Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or *Brian.Foster@rrb.gov.*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Brian Foster,

Clearance Officer.

[FR Doc. 2020–18341 Filed 8–20–20; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89579; File No. SR–CboeEDGX–2020–040]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Adopt Fees for a New Data Product on Its Equity Options Platform To Be Known as Intraday Open-Close Data

August 17, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 3, 2020, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX Options'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to adopt fees for a new data product on its equity options platform (''EDGX Options'') to be known as Intraday Open-Close Data. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), 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 Exchange recently adopted a new data product on EDGX to be known as Intraday Open-Close Data, which will be available for purchase to EDGX Members and non-Members.[3] The Exchange now proposes to adopt fees for Intraday Open-Close Data. Cboe LiveVol, LLC (''LiveVol''), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., will make the Intraday Open-Close Data available for purchase to Members and non-Members on the LiveVol DataShop website (*datashop.cboe.com*).

By way of background, the Exchange historically offered Open-Close Data, which is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Open-Close Data is proprietary EDGX trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed.

The Exchange recently adopted a similar product: Intraday Open-Close Data. The Intraday Open-Close Data will provide similar information to that of Open-Close Data but will be produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period. For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current ''snapshot'' and all previous ''snapshots.'' The Intraday Open-Close Data will provide a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* SR–EDGX–2020–036.

The customer and professional customer volume will be further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Intraday Open-Close Data is also proprietary EDGX trade data and does not include trade data from any other exchange. In contrast to the existing Open-Close Data product, the Intraday Open-Close Data will not provide execution price.

The Exchange anticipates a wide variety of market participants to purchase Intraday Open-Close Data, including, but not limited to, individual customers, buy-side investors, and investment banks. The Exchange believes the Intraday Open-Close Data product may also provide helpful trading information regarding investor sentiment that may allow market participants to make better trading decisions throughout the day and may be used to create and test trading models and analytical strategies and provides comprehensive insight into trading on EDGX. For example, intraday open data may allow a market participant to identify new interest or possible risks throughout the trading day, while intraday closing data may allow a market participant to identify fading interests in a security. The product is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange notes that other exchanges offer a similar data product.[4]

The Exchange proposes to provide in its Fee Schedule that Members and non-Members may purchase Intraday Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (historical file). The Exchange proposes to assess a monthly fee of $1,000 (or $12,000 per year) for subscribing to the data feed. The Exchange also proposes to assess a fee of $500 per request per month for an ad-hoc request of historical Intraday Open/Close data covering all Exchange-listed securities. An ad-hoc request can be for any number of months beginning with January 2020 for which the data is available.[5] The proposed subscription and ad-hoc fees will apply both to Members or non-Members. The Exchange notes that other exchanges provide similar data products that may be purchased on both a subscription and ad-hoc basis and are similarly priced.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of 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 remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposal to adopt fees for Intraday Open-Close Data is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(4) of the Act[9] in particular, in that it is an equitable allocation of dues, fees and other charges among its members and other recipients of Exchange data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. Particularly, Intraday Open-Close Data further broadens the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The data product also promotes increased transparency through the dissemination of Intraday Open-Close Data. Particularly, information regarding opening and closing activity across different option series during the trading day may indicate investor sentiment, which may allow market participants to make better informed trading decisions throughout the day. Subscribers to the data may also be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes Intraday Open-Close Data provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading. Moreover, other exchanges offer a similar data product.[10]

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 17% of the market share and currently the Exchange represents only approximately 4.16% of the market share.[11] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[12] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract

[4] *See* Securities Exchange Act Release No. 61317 (January 8, 2010), 75 FR 2915 (January 19, 2010) (SR–ISE–2009–103); Securities Exchange Act Release No. 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR–Phlx–2010–121); Securities Exchange Act Release No. 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR–NASDAQ–2011–144); and Securities Exchange Act Release No. 81632 (September 15, 2017), 82 FR 44235 (September 21, 2017) (SR–GEMX–2017–42).

[5] For example, a Member or non-Member that requests historical Intraday Open/Close Data for the months of January 2020 and February 2020, would be assessed a total of $1,000. The Exchange notes that it may make historical data prior to January 2020 available in the future and that such historical data would be available to all Members or non-Members.

[6] *See* Price List—U.S. Derivatives Data for Nasdaq PHLX, LLC (''PHLX''), The Nasdaq Stock Market, LLC (''Nasdaq''), Nasdaq ISE, LLC (''ISE''), and Nasaq GEMX, LLC (''GEMX''), available at *http://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#web*. Particularly, PHLX offers ''Nasdaq PHLX Options Trade Outline (PHOTO)'' and assesses $1,500 per month for an intra-day subscription and $750 per month for historical reports; Nasdaq offers the ''Nasdaq Options Trade Outline (NOTO)'' and assesses $750 per month for an intra-day subscription and $500 per month for historical reports; ISE offers the ''Nasdaq ISE Open/Close Trade Profile'' and assesses $2,000 per month for an intra-day subscription and $1,000 per month for historical reports; and GEMX offers the ''Nasdaq GEMX Open/Close Trade Profile'' and assesses $1,000 per month for an intra-day subscription and $750 per month for historical reports.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(4).

[10] *See* supra note 4.

[11] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (July 31, 2020), available at *https://markets.cboe.com/us/options/market_statistics/*.

[12] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

purchasers of the recently introduced Intraday Open-Close Data product.

The Exchange believes the proposed fees are reasonable as the proposed fees are both modest and similar to, or even lower than, the fees assessed by other exchanges that provide similar data products.[13] Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. Like the Exchange's Intraday Open-Close Data product, other exchanges offer similar data products that each provide insight into trading on those markets and may likewise aid in assessing investor sentiment. Although each of these similar Intraday Open-Close data products provide only proprietary trade data and not trade data from other exchanges, it's possible investors are still able to gauge overall investor sentiment across different option series based on open and closing interest on any one exchange.[14] Similarly, market participants may be able to analyze option trade and volume data, and create and test trading models and analytical strategies using only Intraday Open-Close data relating to trading activity on one or more of the other markets that provide similar data products. As such, if a market participant views another exchange's Intraday Open-Close data as more attractive than its proposed Intraday Open-Close data product, then such market participant can merely choose not to purchase the Exchange's Intraday Open-Close Data and instead purchase another exchange's Intraday Open-Close data product, which offer similar data points, albeit based on that other market's trading activity.

The Exchange also believes the proposed fees are reasonable as they would support the introduction of a new market data product that is designed to aid investors by providing insight into trading on EDGX Options. The recently adopted Intraday Open-Close Data would provide options market participants with valuable information about opening and closing transactions executed on the Exchange throughout the trading day, similar to other trade data products offered by competing options exchanges. In turn, this data would assist market participants in gauging investor sentiment and trading activity, resulting in potentially better informed trading decisions. As noted above, users may also use such data to create and test trading models and analytical strategies.

Selling market data, such as Intraday Open-Close Data, is also a means by which exchanges compete to attract business. To the extent that the Exchange is successful in attracting subscribers for the Intraday Open-Close Data, it may earn trading revenues and further enhance the value of its data products. If the market deems the proposed fees to be unfair or inequitable, firms can diminish or discontinue their use of the data and/or avail themselves of similar products offered by other exchanges.[15] The Exchange therefore believes that the proposed fees for Intraday Open-Close Data reflect the competitive environment and would be properly assessed on Member or non-Member users. The Exchange also believes the proposed fees are equitable and not unfairly discriminatory as the fees would apply equally to all users who choose to purchase such data. The Exchange's proposed fees would not differentiate between subscribers that purchase Intraday Open-Close Data and are set at a modest level that would allow any interested Member or non-Member to purchase such data based on their business needs.

As noted above, the Exchange anticipates a wide variety of market participants to purchase Intraday Open-Close Data, including but not limited to individual customers, buy-side investors and investment banks. The Exchange reiterates that the decision as to whether or not to purchase the Intraday Open-Close Data is entirely optional for all potential subscribers. Indeed, no market participant is required to purchase the Intraday Open-Close Data, and the Exchange is not required to make the Intraday Open-Close Data available to all investors. Rather, the Exchange is voluntarily making Intraday Open-Close Data available, as requested by customers, and market participants may choose to receive (and pay for) this data based on their own business needs. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

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. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to sell a data product similar to those offered by other competitor options exchanges.[16] The Exchange made Open-Close Data available in order to keep pace with changes in the industry and evolving customer needs, and believes the data product will contribute to robust competition among national securities exchanges. At least four other U.S. options exchanges offer a market data product that is substantially similar to the Intraday Open-Close Data. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price Intraday Open-Close Data is constrained by competition among exchanges that offer similar data products to their customers. As discussed, there are currently a number of similar products available to market participants and investors. At least four other U.S. options exchanges offer a market data product that is substantially similar to the Intraday Open-Close Data, which the Exchange must consider in its pricing discipline in order to compete for the market data.[17] For example, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as discussed, market participants are under no obligation to utilize. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange also does not believe the proposed fees would cause any unnecessary or in appropriate burden on intermarket competition as other exchanges are free to introduce their own comparable data product and lower their prices to better compete with the Exchange's offering. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed product and fees apply uniformly to any purchaser, in that it does not differentiate between subscribers that purchase Intraday Open-Close Data. The

[13] *See* supra note 6.

[14] The exchange notes that its Intraday Open-Close data product does not include data on any exclusive, singly-listed option series.

[15] *See* supra note 6.

[16] *Id.*

[17] *See e.g.,* Cboe Options Fees Schedule, Livevol Fees, Open-Close Data. *See also* Nasdaq ISE Options 7 Pricing Schedule, Section 10.A and Nasdaq PHLX Options 7 Pricing Schedule, Section 10, PHLX Options Trade Outline (''PHOTO'').

proposed fees are set at a modest level that would allow any interested Member or non-Member to purchase such data based on their business needs.

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 written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[18] and paragraph (f) of Rule 19b–4[19] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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 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–CboeEDGX–2020–040 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–CboeEDGX–2020–040. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2020–040 and should be submitted on or before September 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18353 Filed 8–20–20; 8:45 am]

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[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89581; File No. SR–MEMX–2020–04]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Various Exchange Rules To Make Changes To Proposed Exchange System Functionality Prior to the Launch of the Exchange

August 17, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 4, 2020, MEMX LLC ("MEMX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to proposed rule change to amend various Exchange Rules to make changes to proposed Exchange System[5] functionality prior to the launch of the Exchange.[6] 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 various Exchange Rules to make changes to proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4.

[5] As defined in Rule 1.5(gg), the Exchange's "System" is the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing. As defined in Rule 1.5(jj), a "User" is a member of the Exchange ("Member") or sponsored participant of a Member who is authorized to obtain access to the System pursuant to Rule 11.3. The Exchange notes that it proposes to amend Rule 1.5 to designate the term "Top of Book" as paragraph (ii), as there are currently two paragraphs labeled (jj). As amended, the term User would continue to be labeled as paragraph (jj).

[6] The Exchange's application to register as a national securities exchange was approved in May of 2020. *See* Securities Exchange Act Release No. 88806 (May 4, 2020), 85 FR 27451 (May 8, 2020). The Exchange currently anticipates launching in September of 2020.

functionality prior to the launch of the Exchange. Each change is based upon a final review of functionality that the Exchange would like to offer at the time of launch and is either intended to simplify the operation of the System, to align with functionality offered on other exchanges, or to make clear certain aspects of the operation of the System that are not clear based on the Exchange's current Rules. These changes are described in detail below and include amending: (i) Rules 1.5, 11.1, 11.6, 11.7, 11.8, and 11.16 in connection with the elimination of the Exchange's Early Order Entry Session,[7] Opening Process,[8] and Re-Opening Process [9] and a related modification to the operation of the System in the event of a trading halt; (ii) Rule 11.8 regarding certain details applicable to Market Orders [10] and Limit Orders; [11] (iii) Rules 11.6 and 11.9 regarding the handling of orders with a Primary Peg instruction [12] or a Midpoint Peg instruction; [13] (iv) Rules 11.6 and 11.8 regarding the removal of certain ''default'' instructions applicable to order types and order type instructions; and (v) Rules 11.6, 11.8, 11.10 and 11.16 regarding the handling of orders with certain attributes (*i.e.,* Displayed instruction,[14] Non-Displayed instruction [15] and Reserve Quantity [16]) in specific circumstances.

Elimination of the Early Order Entry Session, Opening Process, Re-Opening Process and Related Changes

The Exchange is proposing to make various changes to simplify the way the Exchange opens for trading each day and re-opens in the event of a trading halt. Specifically, the Exchange proposes to eliminate the Early Order Entry Session, the Opening Process and the Re-Opening Process, and to modify the operation of the System in the event of a trading halt, each as further described below.

Currently, the Early Order Entry Session is described as a trading session running from 6:00 a.m. to 7:00 a.m. during which certain types of orders could be submitted to and held by the Exchange but would not be executed.[17] Such orders would queue until the beginning of the Pre-Market Session, at 7:00 a.m., at which time they would be handled in time sequence, beginning with the order with the oldest timestamp, and would be placed on the MEMX Book,[18] routed, cancelled, or executed in accordance with the terms of the order. The Exchange is proposing to eliminate the Early Order Entry Session by deleting such term from Rule 1.5(i) and removing the description of the handling of orders during such trading session set forth in paragraphs (a) and (a)(1) of Rule 11.1. As proposed, rather than offering a pre-opening queuing session, the Exchange would instead commence operations each day beginning with the Pre-Market Session, which begins at 7:00 a.m. At the beginning of the Pre-Market Session, the Exchange would begin accepting all orders that are eligible for the Pre-Market Session.[19] In connection with these changes, the Exchange also proposes to amend Rule 1.5(k), which presently defines Exchange Hours and Exchange Operating Hours as the time between 6:00 a.m. and 8:00 p.m. Eastern Time. As amended, because of the elimination of the Early Order Entry Session, the definition would refer instead to the time between 7:00 a.m. and 8:00 p.m. Eastern Time.

The Exchange is proposing the elimination of the Early Order Entry Session because this change will reduce complexity with respect to the functionality used to open the Exchange each trading day. At least upon its initial launch, the Exchange does not anticipate having significant volume in its Early Order Entry Session. Because the Exchange will still offer the Pre-Market Session, Users will still be able to enter orders into the Exchange prior to the commencement of the Market Session. Further, not all exchanges offer a trading session equivalent to the Early Order Entry Session.[20] For the reasons stated above, the Exchange does not believe the removal of the Early Order Entry Session is a significant departure from its originally proposed operations.

The Exchange proposes to further simplify the operations of the Exchange by eliminating the Opening Process and Re-Opening Process and making conforming changes throughout the Exchange's Rules. The Opening Process is described in Rule 11.7, which sets forth a variety of computations performed by the Exchange beginning at the start of the Market Session in order to match orders on the Exchange at the midpoint of the national best bid and offer (''NBBO'') following the opening of trading on the applicable primary listing market (*i.e.,* the ''Opening Match'' described in Rule 11.7(b)). Rule 11.7 further defines the types of orders eligible to participate in the Opening Match, the methodology used by the Exchange to determine when to process the Opening Match and the methodology used by the Exchange to re-open a security that is subject to a halt, suspension, or pause in trading. The Exchange proposes to delete the definitions of Opening Match, Opening Process and Re-Opening Process contained in Rule 1.5(s), Rule 1.5(t) and Rule 1.5(cc), respectively, as well as Rule 11.7 in its entirety. Accordingly, rather than using an Opening Process and opening the Market Session following a match of eligible orders at the midpoint of the NBBO, the Exchange would instead immediately transition to the Market Session at 9:30

[7] As defined in Rule 1.5(i), the Early Order Entry Session is ''the time between 6:00 a.m. and 7:00 a.m. Eastern Time.''

[8] As defined in Rule 1.5(t), the Opening Process is ''the computations performed by the System as defined in Rule 11.7, which begin at 9:30 a.m. Eastern Time.''

[9] As defined in Rule 1.5(cc), the Re-Opening Process is ''a computation performed by the System as defined in Rule 11.7(e) following a halt, suspension or pause.''

[10] Market Orders are the first of three primary order types offered by the Exchange. Market Orders are described in Exchange Rule 11.8(a) and generally defined as an order to buy or sell a stated amount of a security that is to be executed at the NBBO or better when the order reaches the Exchange.

[11] Limit Orders are the second of three primary order types offered by the Exchange. Limit Orders are described in Exchange Rule 11.8(b) and generally defined as an order to buy or sell a stated amount of a security at a specified price or better.

[12] A Primary Peg instruction is an instruction that may be placed on a Pegged Order that instructs the Exchange to peg the order to the NBB, for a buy order, or the NBO, for a sell order. *See* Exchange Rule 11.6(h)(1). Pegged Orders are the third of three primary order types offered by the Exchange. Pegged Orders are described in Exchange Rules 11.6(h) and 11.8(c). Pegged Orders are generally defined as an order that automatically re-prices in response to changes in the NBBO.

[13] A Midpoint Peg instruction is an instruction that may be placed on a Pegged Order that instructs the Exchange to peg the order to midpoint of the NBBO. *See* Exchange Rule 11.6(h)(2).

[14] A Displayed instruction is an instruction a User may attach to an order stating that the order is to be displayed by the System on the MEMX Book. *See* Exchange Rule 11.6(c)(1).

[15] A Non-Displayed instruction is an instruction a User may attach to an order stating that the order is not to be displayed by the System on the MEMX Book. *See* Exchange Rule 11.6(c)(2).

[16] A Reserve Quantity is the portion of an order that includes a Non-Displayed instruction in which a portion of that order is also displayed on the MEMX Book. *See* Exchange Rule 11.6(k).

[17] *See* Rule 1.5(i) and Rule 11.1(a).

[18] As defined in Rule 1.5(q), the MEMX Book is the System's electronic file of orders.

[19] *See* Rule 11.8(a)(4), which specifies that Market Orders are not eligible for any session other than the Market Session. The Market Session is the time between 9:30 a.m. and 4:00 p.m. Eastern Time. *See also* Rule 11.6(o)(5), which states that the TIF of RHO is an instruction a User may attach to an order designating it for execution only during Regular Trading Hours.

[20] *See, e.g.,* IEX Rule 11.110, which lists the trading sessions available on IEX as a Pre-Market Session, a Regular Market Session and a Post-Market Session, which would be equivalent to the three trading sessions offered by the Exchange. The Exchange notes that its Pre-Market Session will begin one hour earlier than IEX, at 7:00 a.m. Eastern Time instead of 8:00 a.m. Eastern Time.

a.m. Similarly, rather than using a Re-Opening Process to match eligible orders following a halt, suspension, or pause in trading, the Exchange would re-open and begin accepting and processing orders when such halt, suspension, or pause in trading has been lifted.

As noted above, the Exchange believes these changes will reduce complexity with respect to the functionality used to open the Exchange each trading day and following a halt, suspension, or pause in trading. At least upon its initial launch, the Exchange does not anticipate having significant volume in either the Opening Process or the Re-Opening Process. The Exchange instead anticipates that Users will participate in the applicable opening processes and re-opening processes on other exchanges where they currently participate today. For the reasons stated above, the Exchange does not believe the removal of the Opening Process or Re-Opening Process is a significant departure from its originally proposed operations.

In connection with the changes described above, the Exchange proposes to delete Rule 11.16(e)(6), which describes the process to re-open following a trading pause pursuant to the Limit Up-Limit Down Plan (''LULD Plan'') through a cross-reference to Rule 11.7(e) (as described above, the Exchange has proposed to delete such provision). In order to provide a general procedure for all types of trading halts, including but not limited to trading pauses pursuant to the LULD Plan, the Exchange also proposes to amend Rule 11.16(f). Rule 11.16(f) currently states that when any trading halt occurs, except where a User has designated that its orders be cancelled, all outstanding orders in the System will remain on the MEMX Book. The Exchange proposes to amend this Rule first by removing the optionality of the functionality (*i.e.,* orders remain unless a User chooses to have them cancelled) and instead cancelling all orders on the MEMX Book in the event of any trading halt, including a trading pause pursuant to the LULD Plan. Thus, as amended, in the event of any trading halt, all orders will be cancelled. Further, the Exchange proposes to add language to Rule 11.16(f) to state that the Exchange will not accept any orders during a halt, suspension, or pause in trading, and that it will begin accepting orders again when the halt, suspension, or pause in trading has ended.

In connection with the elimination of the Opening Process and Re-Opening Process the Exchange proposes additional conforming changes in Rules 11.6 and 11.8, as follows. First, the Exchange proposes to remove language referring to the Opening Process and Re-Opening Process from Rule 11.6(o)(5), which describes the Time-in-Force (''TIF'') of Regular Hours Only (''RHO'') as an order designated for execution only during Regular Trading Hours.[21] Second, the Exchange proposes to modify Rule 11.8(a)(1) by removing reference to the handling of a Market Order with a TIF of RHO following an Opening Process or Re-Opening Process. Third, the Exchange proposes to modify Rule 11.8(c) to remove a description of the System's handling of a Pegged Order with a Minimum Execution Quantity instruction [22] during the Opening Process. Without an Opening Process or Re-Opening Process, none of these details are necessary.

Market Order and Limit Order Functionality

The Exchange also proposes minor changes to the current descriptions of Market Orders and Limit Orders as further described below.

First, the Exchange proposes to make clear that a Market Order with a TIF of Immediate or Cancel (''IOC'') can be routed away from the Exchange to another Trading Center [23] if the entering User instructs the Exchange accordingly. The Exchange's current rules conflict on this point. Current Rule 11.8(a)(1) states that a Market Order with a TIF instruction of IOC that is not executed upon return to the System after being routed to an away Trading Center will be cancelled. However, current Rule 11.8(a)(5) states that a Market Order with a TIF instruction of IOC is not eligible for routing. The Exchange proposes to modify Rule 11.8(a)(1) by removing the sentence related to routed orders with an IOC instruction and relocating it to Rule 11.8(a)(5), which relates to routing generally, but without direct reference to the TIF instruction of IOC. This new sentence would instead read that if a Market Order is routed, any portion of the Market Order not executed upon return to the System after being routed to an away Trading Center will be cancelled. The Exchange proposes to further amend Rule 11.8(a)(5) by removing the reference to Market Orders with a TIF instruction of IOC from the list of orders not eligible for routing.

Second, the Exchange proposes to add new provisions to the descriptions of both Market Orders and Limit Orders that state that if an order is received by the System when the NBBO is not available then such order will be rejected back to the entering User. The applicable provision would be added as Rule 11.8(a)(7) for Market Orders and Rule 11.8(b)(9) for Limit Orders.[24] The language is based on language applicable to Pegged Orders set forth in Rule 11.8(c)(7), which states that a Pegged Order received by the System when the NBBO is not available will be rejected or cancelled back to the entering User.

Orders With a Primary Peg Instruction or Midpoint Peg Instruction

The Exchange proposes to modify paragraphs (a)(2)(A) and (a)(2)(B) of Rule 11.9 to separate orders with a Primary Peg instruction and orders with a Midpoint Peg instruction from a priority perspective. The Exchange currently has a single priority level for all Pegged Orders. The Exchange believes that separation of the two types of Pegged Orders will be more consistent with other exchanges [25] and that orders with a Primary Peg instruction should be afforded higher priority than orders with a Midpoint Peg instruction because a Pegged Order with a Primary Peg instruction is a more aggressive order type. For an order with a Primary Peg instruction to be resting at the same price as an order with a Midpoint Peg instruction the order with a Primary Peg instruction must have an aggressive offset; depending on subsequent price movements, such an order with a Primary Peg instruction might provide price improvement from the applicable quote to which it is pegged of a full penny or multiple pennies whereas a Midpoint Peg can provide such price improvement under

[21] The Exchange also proposes to update the description of the RHO TIF to more closely mirror other TIF instructions, such as the Day TIF instruction, and make clear that an order with a TIF of RHO will expire at the end of Regular Trading Hours if not executed. Further, the Exchange proposes to expressly state in Rule 11.6(o)(5) that any order with a TIF instruction of RHO entered into the System before the opening or after the closing of Regular Trading Hours will be rejected.

[22] The Minimum Execution Quantity instruction is described in Rule 11.6(f) and is generally defined as an instruction a User may attach to an order with a Non-Displayed instruction or a Time-in-Force of Immediate-or-Cancel instruction requiring the System to execute the order only to the extent that a minimum quantity can be satisfied.

[23] As defined in Rule 11.6(p), the term Trading Center includes other securities exchanges, facilities of securities exchanges, automated trading systems, electronic communications networks or other brokers or dealers.

[24] Due to the addition of new paragraph (b)(9) to Rule 11.8, the Exchange proposes to re-number subsequent paragraphs of Rule 11.8(b).

[25] *See, e.g.,* Cboe BZX Rule 11.12(a)(2), which places Non-Displayed Pegged Orders above Mid-Point Peg Orders in the priority list; *see also* Cboe EDGX Rule 11.9(a)(2)(B), which places Orders with a Pegged instruction above MidPoint Peg Orders in the priority list when both orders are at the midpoint of the NBBO.

certain circumstances but also may be executed in smaller increments of $0.005. The Exchange is seeking to reward more aggressive order types, even when not displayed, because such order types provide price improvement to incoming orders and thus promote the operation of a fair and orderly market.

In addition to the change described above, the Exchange proposes two minor changes to the description of the Primary Peg instruction set forth in Rule 11.6(h)(1). First, the current rule states that a User may, but is not required to, select an offset equal to or greater than one Minimum Price Variation [26] above or below the NBB or NBO that the order is pegged to (''Primary Offset Amount''). The Exchange proposes to limit the Primary Offset Amount to a $0.01 minimum. While the Minimum Price Variation for securities priced below $1.00 is an increment of $0.0001, the Exchange does not believe that orders with a Primary Peg instruction will be commonly used in securities priced below $1.00 or that allowing a more granular offset is necessary when the Exchange could instead simplify its System's operation. The Exchange notes that Users that wish to submit orders with a Primary Peg instruction in a security priced below $1.00 can still submit such an order with an offset in an increment of $0.01. If such an offset is not sufficiently granular to meet the needs of a particular User, such User would be able to submit priced Limit Orders in the standard MPV for a security priced below $1.00 (*i.e.,* in an increment of $0.0001). The Exchange notes that it already maintains other exceptions for securities trading below $1.00 to maintain the simplicity of the System.[27] Second, the Exchange proposes to make clear that a User submitting a Pegged Order with a Primary Peg instruction may not include a limit price on such order. This limitation is already implied, as there is no language permitting the inclusion of a limit price (and instead the Rule permits inclusion of an offset, as described above). However, since the description of the Midpoint Peg instruction does explicitly address the inclusion of a limit price on such an order and such inclusion is permitted, the Exchange believes that expressly stating that a limit price is not permitted for an order with a Primary Peg instruction would help to avoid potential confusion with the Exchange's Rules.

Removal of References to Default Instructions

Next, the Exchange proposes to eliminate references throughout its Rules 11.6 and 11.8 to certain ''default'' instructions. As currently drafted, such default instructions are instructions that the Exchange will infer with respect to certain order types and order type instructions to the extent an order does not specify such details on the order. The Exchange has determined not to offer default settings for most order types and order type instructions, but rather, will require a User to specify attributes on an order when entered. The Exchange notes that its technical specifications delineate the required fields for entering orders into the Exchange as well as the applicable options for such fields.[28] Accordingly, the Exchange proposes to delete the following references to default settings:

- Rule 11.6(c)(1) with respect to display instructions—rather than defaulting to a Displayed instruction, a User will need to designate an order with either a Displayed or Non-Displayed instruction;
- Rule 11.6(j)(1)(A)(iii) with respect to Display-Price Sliding—rather than defaulting to Display-Price Sliding that only reprices an order one time following initial placement on the MEMX Book, a User will need to select either single or multiple price sliding; [29]
- Rule 11.6(j)(2)(A) with respect to Re-Pricing Instructions to Comply with Rule 201 of Regulation SHO (''Short Sale Price Sliding'')—rather than defaulting to Short Sale Price Sliding that only reprices an order one time following initial placement on the MEMX Book, a User will need to select either single or multiple Short Sale Price Sliding; [30]
- Rule 11.6(k)(1)(A) with respect to the Random Replenishment instruction for orders with a Reserve Quantity instruction—rather than defaulting to the immediate re-load of an order with a Random Replenishment instruction, a User will need to either select immediate replenishment or to have the time interval of such re-load randomly set by the Exchange;
- Rule 11.8(a)(1) with respect to the TIF instruction for a Market Order—rather than defaulting to a TIF instruction of Day, a User will need to select the applicable TIF instruction; [31]
- Rule 11.8(b)(1) with respect to the TIF instruction for a Limit Order—rather than defaulting to a TIF instruction of Day, a User will need to select the applicable TIF instruction;
- Rule 11.8(b)(3) with respect to the display instruction for a Limit Order—rather than defaulting to a Limit Order with a Displayed instruction, a User may include either a Displayed instruction or a Non-Displayed instruction; [32]

[26] The Minimum Price Variation is defined in Rule 11.6(g) and provides the minimum increments for bids, offers, or orders in securities traded on the Exchange.

[27] *See, e.g.,* Rule 11.6(l)(2), which provides that orders with a Post Only instruction priced below $1.00 will remove liquidity if there is contra-side liquidity (*i.e.,* the Post Only instruction is effectively inapplicable). The Exchange also notes that other exchanges appear to offer offsets in $0.01 increments. See, *e.g.,* NYSE Pillar Gateway FIX Protocol Specification, at pages 24–25, specifying the limit for a Market Peg order offset to a ''multiple of .01''; *available at: https://www.nyse.com/publicdocs/NYSE_Pillar_Gateway_FIX_Protocol_Specification.pdf.*

[28] While the Exchange is removing most references to default instructions, the Exchange notes that its specifications, in order to align with current industry protocols, do permit some fields to be left blank without rejecting an order. *See infra* notes 32 and 34–36. While the Exchange may require certain fields to be completed on all orders at some point in the future following proper notice to Members and an update to its specifications, standard industry protocols (*i.e.,* the FIX protocol) currently dictate the Exchange's implementation with respect to the certain instructions. The Exchange also notes that many of the defaults the Exchange is removing involve an optional functionality that, in turn, has multiple variations. For instance, while the Exchange does not require a User to submit an order with Reserve Quantity and thus, a User could leave all relevant fields blank, if a User does submit an order with a Reserve Quantity then the User must complete all of the fields relevant to the handling of an order with Reserve Quantity, as described below.

[29] The Exchange notes that it proposes to add the phrase ''single price sliding process'' to Rule 11.6(j)(1)(A)(iii) to be consistent with an existing reference in such Rule to the Exchange's ''multiple price sliding process'', and proposes to expressly state that a User that submits an order with a Display-Price Sliding instruction must select either single or multiple price sliding. The Exchange also proposes to eliminate the word ''optional'' from both Rule 11.6(j)(1)(A)(iii) and Rule 11.16(e)(5)(B)(i) when referring to the multiple price sliding process, as both the single price sliding process and the multiple price sliding process are ''optional'', and thus, the reference could be confusing.

[30] Consistent with the proposed changes to Rule 11.6(j)(1)(A)(iii) discussed immediately above, the Exchange proposes to expressly state that a User that submits an order with a short sale re-pricing instruction must select either single or multiple price sliding. The Exchange proposes to use this terminology throughout Rule 11.6(j)(2)(A) to describe the two different options for short sale re-pricing.

[31] In connection with this change, the Exchange proposes to use language consistent with that used with respect to the TIF options for a Limit Order, as set forth in Rule 11.8(b)(1), as amended. Specifically, the Exchange proposes to state that a Market order ''must have one of the following TIF instructions'', followed by a list of the possible instructions.

[32] The Exchange notes that, as set forth in its specifications, Limit Orders without a Displayed instruction or Non-Displayed instruction will not be rejected but instead, will be accepted and handled in accordance with other instructions on the applicable order. For instance, a Limit Order with a Minimum Quantity instruction but no display instruction will be treated as an order with a Non-Displayed instruction whereas a Limit Order with no other special handling instructions will be treated as an order with a Displayed instruction.

• Rule 11.8(b)(4) with respect to the replenishment instruction for a Limit Order with a Reserve Quantity—rather than defaulting to a Fixed Replenishment instruction, a User will need to select the applicable replenishment instruction; [33]

• Rule 11.8(b)(5) with respect to the TIF instruction for a Limit Order with an Intermarket Sweep Order instruction—rather than defaulting to a TIF instruction of Day, a User will need to select the applicable TIF instruction;

• Rule 11.8(b)(10) with respect to the election of a Display-Price Sliding instruction for a Limit Order—rather than defaulting to a Display-Price Sliding instruction, a User may select either Display-Price Sliding (either single or multiple) or Cancel Back; [34]

• Rule 11.8(b)(11) with respect to the election of a Short Sale Price Sliding instruction for a Limit Order—rather than defaulting to a Short Sale Price Sliding instruction, a User will need to select either Short Sale Price Sliding (either single or multiple) or Cancel Back; [35]

• Rule 11.8(c)(3) with respect to the description of the display instruction of a Pegged Order—rather than defaulting to a Non-Displayed instruction, the Exchange proposes to simply state that a Pegged Order is not eligible to have a Displayed instruction.[36]

None of the changes proposed above alter the behavior of the System other than requiring applicable fields of an order to be specified rather than defaulting to certain attributes or instructions to the extent such fields are left blank.

Handling of Orders With Displayed, Non-Displayed and Reserve Quantity Instructions in Specific Situations

Finally, the Exchange proposes to modify the behavior of orders with certain instructions in the situations specified below.

Orders With a Reserve Quantity When Replenished

Current Rule 11.9(a)(6) states that the Reserve Quantity of an order retains its original timestamp but the Exchange has determined that the most efficient way to update orders with a Reserve Quantity when replenishing the displayed portion is to handle such orders as new orders, which will result in the displayed portion and the Reserve Quantity each receiving a new timestamp and being placed back on the MEMX Book. Accordingly, the Exchange proposes to amend Rule 11.9(a)(6) to state that the Reserve Quantity of an order receives a new timestamp for the displayed portion as well as the Reserve Quantity of an order each time it is replenished. The Exchange notes that this functionality is identical to the functionality offered by Cboe EDGX Exchange, Inc., which also assigns a new timestamp to both the displayed portion and Reserve Quantity each time an order is replenished.[37] In connection with this change, the Exchange proposes to make clear in Rule 11.6(k)(1) that when the System replenishes the displayed quantity of an order with a Reserve Quantity, the order will be handled by the System as a new order. Rule 11.6(k) already states that a new order identification number will be created each time a displayed quantity is replenished but the Exchange believes it is important to also explicitly state that the order will be handled as a new order given the implementation by the Exchange of the behavior necessary to replenish orders with a Reserve Quantity.

The proposed change to provide new timestamps to both the displayed portion and the Reserve Quantity of an order when an order is replenished is intended to simplify the operation of the Exchange and does allow for fair treatment of orders with Reserve Quantity for the following reasons. The Exchange believes it will be rare for there to be multiple orders with a Reserve Quantity at the same price on the same side and in the same security, in which case, the proposed change will not impact the handling of an order with a Reserve Quantity—*i.e.,* although it will receive a new timestamp, it will still maintain the same priority on the order book vis-à-vis other orders as it would if the Reserve Quantity did not receive a new timestamp. Even if there are multiple orders with a Reserve Quantity at the same price on the same side and in the same security, the Exchange believes it is fair to allow such orders to lose and regain queue position as they are each individually replenished. As set forth in current Rule 11.9(a)(2), the Reserve Quantity of Limit Orders is always last in the Exchange's priority list, and thus Reserve Quantity is least likely to be executed at any given time. As such, a User primarily concerned with queue position could instead send any other type of order and receive a higher position in the Exchange's priority queue than the Reserve Quantity of such order will receive.

Orders With a Non-Displayed Instruction at Prices That Cross External Quotations

Exchange Rule 11.10(a)(2) currently states that to the extent an order with a Non-Displayed instruction is resting on the MEMX Book, such order will be cancelled if an incoming contra-side order that is eligible for display on the MEMX Book is entered and such incoming order would execute against the resting order with a Non-Displayed instruction at a price that would constitute a trade-through of a Protected Quotation [38] displayed on another trading center. Thus, according to the Exchange's current Rules, the Exchange would maintain orders with a Non-Displayed instruction on its order book that cross the prices displayed on other trading centers unless and until execution of such an order would result in a trade-through.[39] The Exchange's original proposal in this regard was made to reduce cancellations of orders with Non-Displayed instructions to the extent such orders would ultimately be again executable based on changes to the NBBO. However, as described below, the Exchange now proposes to instead cancel an order with a Non-Displayed instruction as soon as it is resting at a price that would be a trade-

[33] The Exchange also proposes to make clear in Rule 11.8(b)(4) that a Reserve Quantity will not be displayed by the System. While this is already clear from Rule 11.6(k), the Exchange believes that it is helpful to re-iterate in Rule 11.8(b)(4).

[34] The Exchange notes that, as set forth in its specifications, Limit Orders without a Display-Price Sliding or Cancel Back instruction will be accepted by the Exchange, however, if a User wishes to use the Exchange's Display-Price Sliding functionality, such User will need to indicate such election on its orders and will need to specify the type of Display-Price Sliding (either single or multiple).

[35] The Exchange notes that, as set forth in its specifications, Limit Orders without a Short Sale Price Sliding or Cancel Back instruction will be accepted by the Exchange, however, if a User wishes to use the Exchange's Short Sale Price Sliding functionality, such User will need to indicate such election on its orders and will need to specify the type of Short Sale Price Sliding (either single or multiple).

[36] The Exchange notes that, as set forth in its specifications, Pegged Orders without a Displayed instruction or Non-Displayed instruction will not be rejected but instead, will be accepted and handled as orders with a Non-Displayed instruction.

[37] *See* Cboe EDGX Rule 11.9(a)(6).

[38] As set forth in Rule 1.5(z), a Protected Quotation is a quotation that is a Protected Bid or Protected Offer. In turn, a Protected Bid or Protected Offer is a bid or offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best bid or best offer of a national securities exchange or association.

[39] The Exchange notes that when an order is not displayed, ranking such an order at a crossing price is permissible, however, execution of an order at such a price is generally not permissible as it would constitute a trade-through of the Protected Quotation that the order crosses.

through of a Protected Quotation—*i.e.,* as soon as it is at a crossing price. The Exchange proposes to remove the existing language from Rule 11.10(a)(2) regarding cancellation of an order when it would be a trade-through and to modify Rules 11.8(b), regarding Limit Orders and Rule 11.8(c), regarding Pegged Orders, as described below.

The Exchange proposes adopting new paragraph (b)(8) regarding Limit Orders to address the handling of orders with a Non-Displayed instruction received or resting on the MEMX Book when the Limit Price on such orders crosses the price of a Protected Quotation of another Trading Center. Proposed paragraph (b)(8), titled Crossed Market, would state that to the extent an incoming Limit Order with a Non-Displayed instruction would be a Crossing Quotation if displayed at its limit price, such order will execute against interest in the MEMX Book at prices up to and including the Locking Price and will then be cancelled by the System. Proposed paragraph (b)(8) would also state that a resting Limit Order with a Non-Displayed instruction that would be a Crossing Quotation if displayed at the price at which it is ranked will be cancelled by the System.[40]

Similarly, the Exchange proposes to modify existing paragraph (c)(6) of Rule 11.8, which provides information regarding the handling of Pegged Orders when the market is locked or crossed. Current paragraph (c)(6) addresses the handling of Pegged Orders resting on the MEMX Book when a Locking or Crossing Quotation exists and makes clear that such orders are not executable at such times but again become eligible for execution when a Locking or Crossing Quotation no longer exists. The Exchange proposes to add language making clear that this behavior applies to orders resting on the MEMX Book and to add a provision addressing the handling of Pegged Orders that would be a Crossing Quotation when initially received by the Exchange. Similar to the handling of Limit Orders with a Non-Displayed instruction, the Exchange proposes to execute interest to the extent permissible upon receipt of a Pegged Order up to and including the Locking Price but then to cancel such order. In contrast to a Pegged Order that is already on the MEMX Book at a permissible price that is subsequently locked or crossed, which the Exchange proposes to allow to rest in a non-executable state while such condition exists, the Exchange does not believe a Pegged Order received at a price that would cross a Protected Quotation should be placed on the MEMX Book.

Orders With a Non-Displayed Instruction Subject to Rule 201 of Regulation SHO

Under the Exchange's current rules as further amended by the proposals described above, the Exchange does not generally offer functionality that moves orders with a Non-Displayed instruction to a permissible price, instead opting to cancel such orders back to the entering Users if the orders with a Non-Displayed instruction would be ranked or are ranked at impermissible prices. Consistent with this approach, rather than re-pricing to a permissible price, the Exchange proposes to modify Rule 11.6(j)(2)(A) to state that in the event the NBB changes such that the price of an order with a Non-Displayed instruction subject to Rule 201 of Regulation SHO would be a Locking Quotation or Crossing Quotation, the order will be cancelled. While many other exchanges do offer re-pricing for non-displayed interest that, if executed, would be a violation of Regulation SHO, the Exchange does not believe it is required to do so and that, instead, cancellation of resting hidden interest is an equally permissible implementation in order to ensure that the Exchange does not execute orders at prices prohibited by Rule 201 of Regulation SHO. The Exchange notes other exchanges do cancel resting non-displayed interest under the same circumstances to the extent members of such exchanges have submitted orders that are ineligible for applicable price sliding functionality.[41]

Orders Priced Through Limit Up-Limit Down (''LULD'') Bands

The Exchange proposes to make three changes to the description of orders that are priced through applicable price bands under the LULD Plan. First, the Exchange further proposes to modify Rule 11.16(e)(5) to state that orders that are repriced by the Exchange due to applicable LULD price bands will have priority behind resting interest that was originally less aggressively priced but that was not re-priced, as such orders will retain their original timestamps. The Exchange originally proposed to maintain price priority for orders that have been re-priced due to applicable LULD price bands, *i.e.,* placing such orders in front of orders that were originally less aggressively priced. The Exchange believes that the System behavior necessary to achieve this result is unnecessarily complicated as compared to the benefit received from adopting such behavior. The Exchange does not believe that market participants utilize LULD price bands, and placement of orders at or near such bands, as an opportunity to achieve queue position under normal conditions. Rather, the Exchange believes that orders resting at or near applicable price bands and the re-pricing of orders priced through such price bands is evidence of unusual conditions and that the Exchange's functionality should be focused on reducing risk in handling such situations. The Exchange also notes that other exchanges have adopted similar order handling that would provide new timestamps to orders that are re-priced.[42]

As noted in the sub-section immediately above, under the Exchange's current rules (as further amended by the proposals described above), the Exchange does not generally offer functionality that moves orders with a Non-Displayed instruction to a permissible price, instead opting to cancel such orders back to the entering Users if the orders with a Non-Displayed instruction would be booked or are resting at impermissible prices. The Exchange proposes to also adopt this logic in the context of the Exchange's order handling to comply with the LULD Plan (''LULD repricing''). Specifically, the Exchange proposes to modify Rule 11.16(e)(5)(B)(i) to make a clear distinction between orders with a Displayed instruction, which will continue to be eligible for LULD re-pricing, and orders with a Non-Displayed instruction or a portion of the order that is not displayed on the Exchange (*i.e.,* orders with a Reserve Quantity), which will not be eligible for LULD re-pricing. The Exchange proposes to cancel orders resting on the MEMX Book with a Non-Displayed instruction or a Reserve Quantity that are ranked at prices more aggressive than the applicable LULD price bands. The Exchange believes this will further simplify the System and that the change is consistent with the general principle of cancelling non-displayed interest

[40] Due to the addition of new paragraph (b)(8) to Rule 11.8, the Exchange proposes to re-number subsequent paragraphs of Rule 11.8(b).

[41] *See, e.g.,* Cboe Exchange Regulation SHO Amendment FAQ, available at *https://cdn.cboe.com/resources/membership/BATS_Exchange_Regulation_SHO_Amendment_FAQ.pdf* (stating that if price sliding is disabled a resting hidden short sale order will be cancelled ''when a short sale circuit breaker goes into effect and the hidden order locks or crosses the prohibited bid price'').

[42] *See, e.g.,* IEX Rule 11.280(e)(5), which states that resting orders that are re-priced due to applicable price bands receive new timestamps (but does not say that resting orders that are not re-priced also receive new timestamps); *see also* Nasdaq PSX Rule 3100(a)(2)(E).

resting on the Exchange at impermissible prices.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[43] 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,[44] which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate. The proposed changes are generally intended to simplify the operation of the System, to align the System with functionality offered on other exchanges, or to make clear certain aspects of the operation of the System that are not clear based on the Exchange's current Rules.

As noted above, removal of the Early Order Entry Session and Opening Process will reduce complexity with respect to the functionality used to open the Exchange each trading day. Similarly, cancelling orders in the event of a trading halt, not accepting orders during a trading halt and removing the Re-Opening Process will simplify the functionality used by the Exchange to re-open the market following a trading halt. The Exchange does not anticipate having significant volume that would be submitted during the Early Order Entry Session nor does the Exchange anticipate having significant volume that would match in its Opening Match or the corresponding match for the Re-Opening Process. Thus, allowing orders to queue at the beginning of the day through the Early Order Entry Session or leading up to the open of the Market Session or allowing orders to remain on the Exchange during a trading halt would complicate the market without much meaningful benefit, and instead the Exchange believes simplification of its System would be better, at least in connection with the initial launch of the Exchange. The Exchange believes that these changes 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 market system. With respect to the Early Order Entry Session, the Exchange also notes that the Exchange will still offer the Pre-Market Session, and thus, Users will be able to enter orders into the Exchange prior to the commencement of the Market Session. Further, not all exchanges offer a trading session equivalent to the Early Order Entry Session.[45] The Exchange also believes that the minor proposed amendments to make conforming changes to other Exchange Rules that reference the deleted functionality will contribute to the protection of investors and the public interest by making the Exchange's rules easier to understand.

The Exchange also believes that the clarifying changes to the descriptions of Market Orders and Limit Orders are necessary and consistent with the Act in that they provide additional clarity by correcting the ambiguity in Exchange Rules that is already present with respect to routing of Market Orders with a TIF of IOC or add protections to the operation of the Exchange so that the Exchange is not accepting or processing orders (of any type) when there is no NBBO. The Exchange believes that the absence of an NBBO may be indicative of a potential market problem. Further, without an NBBO, many of the protections in place for the protection of investors would be absent, and thus the Exchange believes that, at least in connection with the launch of the Exchange, it should not accept orders when there is no available NBBO in the applicable security. Thus, the Exchange believes the proposed changes in this regard would promote just and equitable principles of trade, and, in general, would protect investors and the public interest.

The proposed change to the Exchange's priority rule, Rule 11.9, to separate orders with a Primary Peg instruction and orders with a Midpoint Peg instruction and to afford a higher priority to orders with a Primary Peg instruction, are based on the rules of another exchange[46] and are intended to provide higher priority to orders with a Primary Peg instruction, which are more aggressive orders than orders with a Midpoint Peg instruction, as described above. The Exchange is seeking to reward more aggressive order types, even when not displayed, because such order types provide price improvement to incoming orders and thus promote the operation of a fair and orderly market and protect investors and the public interest. With respect to the limitation of the offset for Primary Peg Orders to an increment of $0.01, the Exchange does not believe that orders with a Primary Peg instruction will be commonly used in securities priced below $1.00 or that allowing a more granular offset is necessary when the Exchange could instead simplify its System's operation. The Exchange notes that Users that wish to submit orders with a Primary Peg instruction in a security priced below $1.00 can still submit such an order with an offset in an increment of $0.01. If such an offset is not sufficiently granular to meet the needs of a particular User, such User would be able to submit its own priced Limit Orders in the standard MPV for a security priced below $1.00 (*i.e.,* in an increment of $0.0001). The Exchange also notes that it already maintains other exceptions for securities trading below $1.00 to maintain the simplicity of the System and that other exchanges offer offsets in $0.01 increments.[47]

The Exchange's proposal to remove certain default instructions under which the Exchange would assume instructions for order entry fields that have not been completed does not change any of the actual functionality of the Exchange once orders are received, but rather, modifies the order entry protocols required by the Exchange. As proposed, all Users will need to complete most applicable order entry fields when sending an order to the Exchange, rather than some fields carrying particular meaning if such fields are left blank. The Exchange believes that requiring most fields to be completed by a User rather than applying Exchange-determined defaults to these fields will also simplify the System and will help to ensure that Users have instructed the Exchange with respect to order handling in a manner that directly matches their intention. As these changes do not alter the ultimate handling of orders with respect to matching engine handling, execution or other processing by the Exchange, and instead provide Users with more control and engagement with respect to their order handling, the Exchange believes such changes promote just and equitable principles of trade, and, in general, protect investors and the public interest.

The Exchange believes that its handling of an order with a Reserve Quantity as a new order when replenishing the displayed portion of such an order is the most efficient way to operate the System. Also, the Exchange's proposal to provide a new timestamp to both the displayed portion and the Reserve Quantity is based on the rules of another exchange.[48] As described above, the Exchange believes that it will be rare for there to be

[43] 15 U.S.C. 78f(b)(6).

[44] 15 U.S.C. 78f(b)(8).

[45] *See supra* note 20.

[46] *See supra* note 25.

[47] *See supra* note 27.

[48] *See supra* note 37.

multiple orders with a Reserve Quantity at the same price on the same side and in the same security, in which case, the proposed change will not impact the handling of an order with a Reserve Quantity. Even if there are multiple orders with a Reserve Quantity at the same price on the same side and in the same security, the Exchange believes it is fair to allow such orders to lose and regain queue position as they are each individually replenished. The Exchange also reiterates that the Reserve Quantity of Limit Orders is always last in the Exchange's priority list, and thus the purpose of such Reserve Quantity is not to achieve the highest possible queue position, but instead, to have sufficient interest that can be replenished and displayed by the Exchange. Based on the foregoing, the Exchange believes that these changes 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 market system.

The Exchange's proposal to reject on entry any order with a Non-Displayed instruction or any Pegged Order or to cancel any order with a Non-Displayed instruction when an order is resting at a crossing price is consistent with Regulation NMS, particularly Rule 611 thereof,[49] which would prohibit execution of orders with a Non-Displayed instruction on the Exchange as an impermissible trade-through to the extent a Protected Quotation was being displayed by another market at a crossing price. The Exchange also notes that its proposal is consistent with the Exchange's current Rules, which would provide such cancellation if the Exchange received an incoming order and sought to execute against orders resting at a price that crosses a Protected Quotation. The Exchange has also proposed to cancel resting orders with a Short Sale instruction and Non-Displayed instruction if such order is subject to Rule 201 of Regulation SHO,[50] and would lock or cross the price of the NBB. This change is consistent with Rule 201's prohibition of executing an order with a Short Sale instruction at the price of the NBB. The Exchange has also proposed to cancel rather than re-price any resting interest with a Non-Displayed instruction or a Reserve Quantity to the extent such interest is resting at a price that is through the applicable LULD price bands. The Exchange believes this will further simplify the System and that the change is consistent with the general principle of cancelling non-displayed interest resting on the Exchange at impermissible prices.

The Exchange's Rules on each of the points described above would have allowed additional interest to remain on the Exchange's book for potential execution depending on later events. However, by instead cancelling such orders in each of the scenarios described above the Exchange will further simplify and reduce risk in connection with the operation of the System. Users who have their orders cancelled will receive immediate notification of such event and will be able to determine the best way to re-enter their interest onto the Exchange if they choose to do so. Thus, the Exchange also believes the proposal promotes just and equitable principles of trade, and, in general, protects investors and the public interest.

Finally, as proposed the Exchange will not seek to maintain price priority for orders that have been re-priced due to applicable LULD price bands or re-price orders with a Non-Displayed instruction or Reserve Quantity to permissible prices when such orders are priced through a LULD price band. As noted above, the Exchange believes that orders resting at or near applicable price bands and the re-pricing of orders priced through such price bands is evidence of unusual conditions and that the Exchange's functionality should be focused on reducing risk in handling such situations. This change does reduce the complexity of the System in connection with LULD repricing and thus, the Exchange believes the proposal promotes just and equitable principles of trade, and, in general, protects investors and the public interest. The Exchange also notes that other exchanges have adopted similar order handling that would provide new timestamps to orders that are re-priced.[51]

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 reiterates that the proposed rule change is being proposed in the context of the launch of the Exchange and focuses on changes to the proposed operation of the Exchange that further reduce complexity of the System and/or the Exchange's Rules. The changes will allow the Exchange to launch its platform with minor changes to the implementation of certain Exchange operations, but without major distinction from its proposed Rules or the rules of other national securities exchanges already in operation today. Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges. In addition, the Exchange believes the proposed rule change will benefit Exchange participants in that the changes will reduce complexity of the System and/or the Exchange's Rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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[52] and Rule 19b–4(f)(6)[53] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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

[49] 17 CFR 242.611.

[50] 17 CFR 242.201.

[51] *See supra* note 42.

[52] 15 U.S.C. 78s(b)(3)(A).

[53] 17 CFR 240.19b–4.

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–MEMX–2020–04 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–2020–04. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–MEMX–2020–04 and should be submitted on or before September 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[54]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18343 Filed 8–20–20; 8:45 am]

BILLING CODE 8011–01–P

[54] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33972; 812–15095]

Owl Rock Capital Corporation II, et al.

August 17, 2020.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under Section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from Sections 18(a)(2), 18(c), 18(i) and Section 61(a) of the Act.

Summary of Application: Applicants request an order to permit certain closed-end management investment companies that have elected to be regulated as business development companies (''BDCs'') to issue multiple classes of shares with varying sales loads and asset-based service and/or distribution fees.

Applicants: Owl Rock Capital Corporation II (the ''Current Fund''), Owl Rock Core Income Corp. (''ORCIC'') and Owl Rock Capital Advisors LLC (the ''Investment Adviser'').

DATES: The application was filed on February 14, 2020 and amended on May 29, 2020 and June 30, 2020.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving applicants with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on September 11, 2020 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing to the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: *alan@owlrock.com.*

FOR FURTHER INFORMATION CONTACT: Marc Mehrespand, Senior Counsel, at (202) 551–8453 or Trace Rakestraw, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Current Fund is a Maryland corporation that is an externally managed, closed-end management investment company and that has elected to be regulated as a BDC under the Act.[1] The Current Fund's investment objective is to generate current income and, to a lesser extent, capital appreciation.

2. ORCIC is a newly-formed Maryland corporation that is expected to be an externally managed, closed-end management investment company and that intends to elect to be regulated as a BDC under the Act. Prior to relying on the relief requested in its application, ORCIC will have filed an election to be regulated as a BDC under the Act. It is expected that ORCIC's investment objective will be to generate current income and, to a lesser extent, capital appreciation by targeting investment opportunities with favorable risk-adjusted returns.

3. The Investment Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as investment adviser to the Current Fund. The Investment Adviser is also expected to serve as the investment adviser to ORCIC.

4. Applicants seek an order to permit the Funds (defined below) to offer investors multiple classes of shares, interests or units of beneficial interest, as the case may be (''Shares''), with varying sales loads and asset-based service and/or distribution fees.

5. Applicants request that the order also apply to any continuously offered registered closed-end management investment company that elects to be regulated as a BDC that has been previously organized or that may be organized in the future for which the Investment Adviser or any entity controlling, controlled by, or under common control with the Investment Adviser, or any successor in interest to any such entity,[2] acts as investment

[1] Section 2(a)(48) of the Act defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in Sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[2] For purposes of the requested order, ''successor'' is limited to any entity that results from a

Continued

adviser which periodically offers to repurchase its Shares pursuant to Rule 13e–4 under the Securities Exchange Act of 1934 (''Exchange Act'') and Section 23(c)(2) of the Act (each, a ''Future Fund'' and together with the Current Fund and ORCIC, the ''Funds'').[3]

6. As a BDC, the Current Fund is organized as a closed-end investment company, but offers its Shares continuously, similar to an open-end management investment company. The Current Fund has only issued one class of Shares, but anticipates that, if it receives the relief requested in its application, it will consider adding additional classes of Shares to its public offering. Shares of the Funds will not be offered or traded in a secondary market and will not be listed on any securities exchange and do not trade on an over-the-counter system.[4]

7. ORCIC anticipates that, if it receives the relief requested in its application, it will offer multiple classes of Shares upon the commencement of its offering.

8. Each Fund is seeking the ability to offer multiple classes of Shares that may charge differing front-end sales loads, contingent deferred sales charges (''CDSCs''), an early withdrawal charge (''Repurchase Fee''), and/or annual asset-based service and/or distribution fees. Each class of Shares will comply with the provisions of Rule 2310 of the Financial Industry Regulatory Authority, Inc. (''FINRA'') Manual (''FINRA Rule 2310'').[5]

9. Any Share of a Fund that is subject to asset-based service or distribution fees shall convert to a class with no asset based service or distribution fees upon such Share reaching the applicable sales charge cap determined in accordance with FINRA Rule 2310. Further, if a class of Shares were to be listed on an exchange in the future, all other then-existing classes of Shares of the listing Fund will be converted into the listed class, without the imposition of any sales load, fee or other charge.

10. In order to provide a limited degree of liquidity to shareholders, Applicants state that each Fund may from time to time offer to repurchase Shares in accordance with Rule 13e–4 under the Exchange Act and Section 23(c)(2) of the Act. Applicants state further that repurchases of each Fund's Shares will be made at such times, in such amounts and on such terms as may be determined by the applicable Fund's board of directors or trustees in its sole discretion.

11. Each Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of Shares offered for sale by the prospectus, as is required for open-end, multiple-class funds under Form N–1A. As if it were an open-end management investment company, each Fund will disclose fund expenses in shareholder reports,[6] and disclose in its prospectus any arrangements that result in breakpoints in, or elimination of, sales loads.[7] Each Fund will also comply with any requirements the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end management investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements as if those requirements applied to the Fund.[8] Each Fund will contractually require that any distributor of a Fund's Shares comply with such requirements in connection with the distribution of such Fund's shares.

12. Distribution fees will be paid pursuant to a plan of distribution adopted by each Fund in compliance with Rules 12b–1 and 17d–3 under the Act, as if those rules applied to closed-end funds electing to be regulated as BDCs, with respect to a class (a ''Distribution Plan'').

13. Each Fund will allocate all expenses incurred by it among the various classes of Shares based on the respective net assets of the Fund attributable to each such class, except that the net asset value and expenses of each class will reflect the expenses associated with the Distribution Plan of that class (if any), shareholder servicing fees attributable to a particular class (including transfer agency fees, if any) and any other incremental expenses of that class. Expenses of the Fund allocated to a particular class of the Fund's Shares will be borne on a pro rata basis by each outstanding Share of that class. Applicants state that each Fund will comply with the provisions of Rule 18f–3 under the Act as if it were an open-end management investment company.

14. Any Fund that imposes a CDSC will comply with the provisions of Rule 6c–10 (except to the extent a Fund will comply with FINRA Rule 2310 rather than FINRA Rule 2341, as such rule may be amended (''FINRA Rule 2341'')), as if that rule applied to BDCs. With respect to any waiver of, scheduled variation in, or elimination of the CDSC, a Fund will comply with the requirements of Rule 22d–1 under the Act as if the Fund were an open-end management investment company. Each Fund also will disclose CDSCs in accordance with the requirements of Form N–1A concerning CDSCs as if the Fund were an open-end management investment company.

15. Funds may impose a Repurchase Fee at a rate no greater than 2% of the shareholder's repurchase proceeds if the interval between the date of purchase of the Shares and the valuation date with respect to the repurchase of such Shares is less than a specified period. Any Repurchase Fee will apply equally to all shareholders of the applicable Fund, regardless of class, consistent with Section 18 of the Act and Rule 18f–3 under the Act. To the extent a Fund determines to waive, impose scheduled variations of, or eliminate any Repurchase Fees, it will do so consistently with the requirements of Rule 22d–1 under the Act as if the Repurchase Fee were a CDSC and as if the Fund were an open-end investment company and the Fund's waiver of, scheduled variation in, or elimination of, the Repurchase Fee will apply uniformly to all shareholders of the Fund.

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(a)(2) of the Act provides that a closed-end investment company may not issue or sell a senior security that is a stock unless certain requirements are met. Applicants state that the creation of multiple classes of shares of the Funds may violate Section 18(a)(2), which is made applicable to BDCs through Section 61(a) of the Act, because the Funds may not meet such requirements with respect to a class of shares that may be a senior security.

reorganization into another jurisdiction or a change in the type of a business organization.

[3] Any Fund relying on this relief in the future will do so in compliance with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed as an applicant.

[4] Applicants are not requesting relief with respect to any Fund listed on a securities exchange. Any Fund which relies on the relief requested herein will cease relying on such relief upon the listing of any class of its Shares on a securities exchange.

[5] Any reference to FINRA Rule 2310 includes any successor or replacement rule that may be adopted by FINRA.

[6] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Co. Act Rel. No. 26372 (Feb. 27, 2004) (adopting release).

[7] *See* Disclosure of Breakpoint Discounts by Mutual Funds, Investment Co. Act Rel. No. 26464 (June 7, 2004) (adopting release).

[8] *See* Confirmation Requirements and Point of Sale Disclosure Requirements for Transactions in Certain Mutual Funds and Other Securities, and Other Confirmation Requirement Amendments, and Amendments to the Registration Form for Mutual Funds, Investment Co. Act Rel. No. 26341 (Jan. 29, 2004) (proposing release).

2. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of Shares of the Funds may be prohibited by Section 18(c), which is made applicable to BDCs through Section 61(a) of the Act, as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

3. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Funds may violate Section 18(i) of the Act, which is made applicable to BDCs through Section 61(a) of the Act, because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under Section 6(c) from Sections 18(a)(2), 18(c) and 18(i) (which are made applicable to BDCs by Section 61(a) of the Act) to permit the Funds to issue multiple classes of Shares.

5. Applicants submit that the proposed allocation of expenses relating to distribution and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its Shares and provide investors with a broader choice of fee options. Applicants assert that the proposed BDC multiple class structure does not raise the concerns underlying Section 18 of the Act to any greater degree than open-end management investment companies' multiple class structures that are permitted by Rule 18f–3 under the Act.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

1. Each Fund will comply with the provisions of Rules 6c–10 (except to the extent a Fund will comply with FINRA Rule 2310 rather than FINRA Rule 2341), 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the Act, as amended from time to time, or any successor rules thereto, as if those rules applied to BDCs. In addition, each Fund will comply with FINRA Rule 2310, as amended from time to time, or any successor rule thereto, and will make available to any distributor of a Fund's shares all of the information necessary to permit the distributor to prepare client account statements in compliance with FINRA Rule 2231.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18336 Filed 8–20–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89576; File No. SR–GEMX–2020–19]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 6, Section 5 (Transfer of Positions)

August 17, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 6, 2020, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 6, Section 5, titled ''Transfer of Positions.''

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/gemx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 6, Section 5, titled ''Transfer of Positions.'' The proposed rule change is similar to Cboe Exchange, Inc. (''Cboe'') Rule 6.7.[5]

Options 6, Section 5 permits market participants to move positions from one account to another without first exposure of the transaction on the Exchange, provided certain exceptions are met. Specifically, Options 6, Section 5(a)(2)[6] provides that transfers of positions are permissible if from one account to another account where no change in ownership is involved (*i.e.,*

[5] *See* Securities and Exchange Act Release No. 89389 (July 23, 2020), 85 FR 45709 (July 29, 2020) (SR–Cboe–2020–067) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 6.7 Concerning Off-Floor Transfers).

[6] Options 6, Section 5(a) states, ''*Permissible Transfers.* Existing positions in options listed on the Exchange of a Member or non-Member that are to be transferred on, from, or to the books of a Clearing Member may be transferred off the Exchange if the transfer involves on or more of the following events: . . . . . (2) the transfer of positions from one account to another account where no change in ownership is involved (*i.e.,* accounts of the same Person, provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements; . . .''

accounts of the same Person),[7] provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements. These transfers are subject to, among other things, the requirement to submit prior written notice of the transfers to the Exchange pursuant to Options 6, Section 5(d) and the restriction on effecting these transfers repeatedly or routinely.

The proposed rule change excepts position transfers effected pursuant to Options 6, Section(a)(2) from the prior written notice requirement in paragraph (d) and from repeated, recurring use restriction in paragraph (g). Position transfers pursuant to Options 6, Section(a)(2) do not involve a change in ownership. In other words, such transfers may only occur between the same individual or legal entity. These types of transfers are merely transfers of positions from one account to another, both of which accounts are attributable to the same individual or legal entity, and thus the transferred option positions will continue to be attributable to the same Person. A market participant effecting an position transfer pursuant to Options 6, Section 5(a)(2) is analogous to an individual transferring funds from a checking account to a savings account, or from an account at one bank to an account at another bank—the money still belongs to the same person, who is just holding it in a different account for personal financial reasons.

Because there is no change in ownership of positions transferred pursuant to Options 6, Section 5(a)(2), the Exchange believes it is appropriate to permit them to occur as routinely and repeatedly as a market participant would like. These transfers will continue to be subject to the prohibition on netting set forth in Options 6, Section 5(b), and thus may not result in the closing of any positions. While the position transfers permitted by Options 6, Section 5 were intended to accommodate non-routine and non-recurring transfers, the Exchange believes permitting routine, recurring position transfers that do not result in a change in ownership or reduction in open interest is consistent with the purpose of not being used to circumvent the normal auction purpose. Additionally, given that these transfers may occur on a regular basis in accordance with a market participants' business needs and procedures, the Exchange believes prior written notice would be onerous and would not serve any purpose given the lack of change in ownership and in open interest. The Exchange believes this will provide market participants with additional flexibility to structure their option position accounts as they believe is appropriate and move their positions between accounts as they deem necessary and appropriate for their business and trading needs, including for risk management purposes.

The proposed rule change also corrects an erroneous cross-reference in Rule Options 6, Section 5(d)(1), as the method for determining the transfer price is in paragraph (c) rather than paragraph (e) of Options 6, Section 5.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [10] 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) [11] 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 the proposed rule change will 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 because it will provide market participants with a more efficient process to transfer open positions between their own accounts in accordance with their own business and trading needs, including to respond to then-current market conditions. Because these transfers would not result in a change in ownership or a reduction in open interest, the Exchange believes the proposed rule change remains consistent with the purpose of Options 6, Section 5, which was to prohibit use of the transfer procedure in circumvention of the normal auction process, as the normal auction process involves the opening or closing of positions through a transaction among multiple market participants. Market participants may maintain different accounts for a variety of reasons, such as the structure of their businesses, the manner in which they trade, their risk management procedures, and for capital purposes. Given that these transfers may occur on a regular basis in accordance with a market participants' business needs and procedures, the Exchange believes prior written notice would be onerous and would not serve any purpose given the lack of change in ownership and in open interest. Therefore, the proposed rule change will benefit investors by permitting market participants to manage the open positions in their accounts in a manner consistent with their businesses.

The Exchange recognizes the numerous benefits of executing options transactions on an exchange, including price transparency, potential price improvement, and a clearing guarantee. However, the Exchange believes it is appropriate to permit position transfers among accounts of the same individual or legal entity where there is no impact on open interest to occur off the exchange, as these benefits are inapplicable to those transfers. These transfers have a narrow scope and are intended to permit market participants to achieve their own business needs. These transfers are not intended to be a competitive trading tool. There is no need for price discovery or improvement, as the transfer merely moves positions to different accounts for the same Person and does not open or close any positions. These transfers will result in no change in ownership. The transactions that resulted in the open positions to be transferred pursuant to Options 6, Section 5(a)(2) were already guaranteed by a clearing member of The Options Clearing Corporation (''OCC''), and the positions may not be closed pursuant to the transfer and will continue to be subject to OCC rules, as they will continue to be held in an account with an OCC clearing member.

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

[7] For purposes of this rule, the term ''Person'' as an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust, or unincorporated organization, or any governmental entity or agency or political subdivision thereof. *See* Options 6, Section 5(a).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

[11] *Id.*

of the purposes of the Act. The proposed rule change is not intended to address competitive issues. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change will apply to all market participants in the same manner. All market participants will be able to effect position transfers pursuant to Options 6, Section 5(a)(2) on a recurring or routine basis without providing the Exchange with notice of such transfers. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it relates solely to the notice required for transfers that may occur today, and the frequency with which those transfers may occur. These transfers will continue to not result in a change in ownership or netting, and thus will have no impact on outstanding option positions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative for 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 to so that it may adopt the proposed position transfer rules as soon as possible which, according to the Exchange, would benefit investors and the general public because it will provide Participants with the ability to request a transfer, for limited, non-recurring types of transfers, without the need for exposing those orders on the Exchange. The proposed rule change does not present any unique or novel regulatory issues and is substantively identical to provisions in Cboe Rule 6.7. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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–GEMX–2020–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–GEMX–2020–19. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–GEMX–2020–19 and should be submitted on or before September 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18347 Filed 8–20–20; 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 a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89585; File No. SR–CBOE–2020–076]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Adopt Fees for a Recently Adopted Data Product Known as Intraday Open-Close Data

August 17, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 3, 2020, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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") is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to adopt fees for a recently adopted data product known as Intraday Open-Close Data. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently adopted a new data product on Cboe Options to be known as Intraday Open-Close Data, which will be available for purchase to Cboe Options Trading Permit Holders ("TPHS") and non-TPHs.[3] The Exchange now proposes to adopt fees for Intraday Open-Close Data. Cboe LiveVol, LLC ("LiveVol"), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., will make the Intraday Open-Close Data available for purchase to TPHs and non-TPHs on the LiveVol DataShop website (*datashop.cboe.com*).

By way of background, the Exchange historically offered Open-Close Data, which is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Open-Close Data is proprietary Cboe Options trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed.

The Exchange recently adopted a similar product: Intraday Open-Close Data. The Intraday Open-Close Data will provide similar information to that of Open-Close Data but will be produced and updated every 10 minutes during the trading day. Data is captured in "snapshots" taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period. For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current "snapshot" and all previous "snapshots." The Intraday Open-Close Data will provide a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume will be further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Intraday Open-Close Data is also proprietary Cboe Options trade data and does not include trade data from any other exchange. In contrast to the existing Open-Close Data product, the Intraday Open-Close Data will not provide execution price.

The Exchange anticipates a wide variety of market participants to purchase Intraday Open-Close Data, including, but not limited to, individual customers, buy-side investors, and investment banks. The Exchange believes the Intraday Open-Close Data product may also provide helpful trading information regarding investor sentiment that may allow market participants to make better trading decisions throughout the day and may be used to create and test trading models and analytical strategies and provides comprehensive insight into trading on the Exchange. For example, intraday open data may allow a market participant to identify new interest or possible risks throughout the trading day, while intraday closing data may allow a market participant to identify fading interests in a security. The product is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange notes that other exchanges offer a similar data product.[4]

The Exchange proposes to provide in its Fee Schedule that TPHs and non-TPHs may purchase Intraday Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (historical file). The Exchange proposes to assess a monthly fee of $2,000 (or $24,000 per year) for subscribing to the data feed. The Exchange also proposes to assess a fee of $1,000 per request per month for an ad-hoc request of historical Intraday Open/Close data covering all Exchange-listed securities. An ad-hoc request can be for any number of months beginning with October 2019 for which the data is available.[5] The proposed subscription and ad-hoc fees will apply both to TPHs or non-TPHs. The Exchange notes that other exchanges provide similar data products that may be purchased on both a subscription and ad-hoc basis and are similarly priced.[6]

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[3] *See* SR–CBOE–2020–070.

[4] *See* Securities Exchange Act Release No. 61317 (January 8, 2010), 75 FR 2915 (January 19, 2010) (SR–ISE–2009–103); Securities Exchange Act Release No. 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR-Phlx-2010–121); Securities Exchange Act Release No. 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR–NASDAQ–2011–144); and Securities Exchange Act Release No. 81632 (September 15, 2017), 82 FR 44235 (September 21, 2017) (SR–GEMX–2017–42).

[5] For example, a TPH or non-TPH that requests historical Intraday Open/Close Data for the months of January 2020 and February 2020, would be assessed a total of $1,000. The Exchange notes that it may make historical data prior to October 2019 available in the future and that such historical data would be available to all TPHs or non-TPHs.

[6] *See* Price List—U.S. Derivatives Data for Nasdaq PHLX, LLC ("PHLX"), The Nasdaq Stock Market, LLC ("Nasdaq"), Nasdaq ISE, LLC ("ISE"), and Nasaq GEMX, LLC ("GEMX"), available at *http://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#web.* Particularly, PHLX offers "Nasdaq PHLX Options Trade Outline (PHOTO)" and assesses $1,500 per month for an intra-day subscription and $750 per month for historical reports; Nasdaq offers the "Nasdaq Options Trade Outline (NOTO)" and assesses $750 per month for an intra-day subscription and $500 per month for historical reports; ISE offers the "Nasdaq ISE Open/Close Trade Profile" and assesses $2,000 per month for an intra-day subscription and $1,000 per month for historical reports; and GEMX offers the "Nasdaq GEMX Open/Close Trade Profile" and assesses $1,000 per month for an intra-day subscription and $750 per month for historical reports.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of 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 remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposal to adopt fees for Intraday Open-Close Data is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(4) of the Act[9] in particular, in that it is an equitable allocation of dues, fees and other charges among its members and other recipients of Exchange data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. Particularly, Intraday Open-Close Data further broadens the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The data product also promotes increased transparency through the dissemination of Intraday Open-Close Data. Particularly, information regarding opening and closing activity across different option series during the trading day may indicate investor sentiment, which may allow market participants to make better informed trading decisions throughout the day. Subscribers to the data may also be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes Intraday Open-Close Data provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading. Moreover, other exchanges offer a similar data product.[10]

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 17% of the market share and currently the Exchange represents only approximately 16.52% of the market share.[11] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[12] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of the recently introduced Intraday Open-Close Data product.

The Exchange believes the proposed fees are reasonable as the proposed fees are in line with the fees assessed by other exchanges that provide similar data products.[13] Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. Like the Exchange's Intraday Open-Close Data product, other exchanges offer similar data products that each provide insight into trading on those markets and may likewise aid in assessing investor sentiment. Although each of these similar Intraday Open-Close data products provide only proprietary trade data and not trade data from other exchanges, it's possible investors are still able to gauge overall investor sentiment across different option series based on open and closing interest on any one exchange. Similarly, market participants may be able to analyze option trade and volume data, and create and test trading models and analytical strategies using only Intraday Open-Close data relating to trading activity on one or more of the other markets that provide similar data products. As such, if a market participant views another exchange's Intraday Open-Close data as more attractive than its proposed Intraday Open-Close data product, then such market participant can merely choose not to purchase the Exchange's Intraday Open-Close Data and instead purchase another exchange's Intraday Open-Close data product, which offer similar data points, albeit based on that other market's trading activity.

The Exchange also believes the proposed fees are reasonable as they would support the introduction of a new market data product that is designed to aid investors by providing insight into trading on Cboe Options. The recently adopted Intraday Open-Close Data would provide options market participants with valuable information about opening and closing transactions executed on the Exchange throughout the trading day, similar to other trade data products offered by competing options exchanges. In turn, this data would assist market participants in gauging investor sentiment and trading activity, resulting in potentially better informed trading decisions. As noted above, users may also use such data to create and test trading models and analytical strategies.

Selling market data, such as Intraday Open-Close Data, is also a means by which exchanges compete to attract business. To the extent that the Exchange is successful in attracting subscribers for the Intraday Open-Close Data, it may earn trading revenues and further enhance the value of its data products. If the market deems the proposed fees to be unfair or inequitable, firms can diminish or discontinue their use of the data and/or avail themselves of similar products offered by other exchanges.[14] The Exchange therefore believes that the proposed fees for Intraday Open-Close Data reflect the competitive environment and would be properly assessed on TPH or non-TPH users. The Exchange also believes the proposed fees are equitable and not unfairly discriminatory as the fees would apply equally to all users who choose to purchase such data. The Exchange's proposed fees would not differentiate

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(4).

[10] *See* supra note 4.

[11] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (July 31, 2020), available at *https://markets.cboe.com/us/options/market_statistics/.*

[12] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[13] *See* supra note 6. The Exchange notes the proposed fees are the same as the fees assessed for the Nasdaq ISE Open/Close Trade Profile.

[14] *See* supra note 6.

between subscribers that purchase Intraday Open-Close Data and are set at a modest level that would allow any interested TPH or non-TPH to purchase such data based on their business needs.

As noted above, the Exchange anticipates a wide variety of market participants to purchase Intraday Open-Close Data, including but not limited to individual customers, buy-side investors and investment banks. The Exchange reiterates that the decision as to whether or not to purchase the Intraday Open-Close Data is entirely optional for all potential subscribers. Indeed, no market participant is required to purchase the Intraday Open-Close Data, and the Exchange is not required to make the Intraday Open-Close Data available to all investors. Rather, the Exchange is voluntarily making Intraday Open-Close Data available, as requested by customers, and market participants may choose to receive (and pay for) this data based on their own business needs. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

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. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to sell a data product similar to those offered by other competitor options exchanges.[15] The Exchange made Open-Close Data available in order to keep pace with changes in the industry and evolving customer needs, and believes the data product will contribute to robust competition among national securities exchanges. At least four other U.S. options exchanges offer a market data product that is substantially similar to the Intraday Open-Close Data. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price Intraday Open-Close Data is constrained by competition among exchanges that offer similar data products to their customers. As discussed, there are currently a number of similar products available to market participants and investors. At least four other U.S. options exchanges offer a market data product that is substantially similar to the Intraday Open-Close Data, which the Exchange must consider in its pricing discipline in order to compete for the market data.[16] For example, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as discussed, market participants are under no obligation to utilize. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange also does not believe the proposed fees would cause any unnecessary or in appropriate burden on intermarket competition as other exchanges are free to introduce their own comparable data product and lower their prices to better compete with the Exchange's offering. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed product and fees apply uniformly to any purchaser, in that it does not differentiate between subscribers that purchase Intraday Open-Close Data. The proposed fees are set at a modest level that would allow any interested TPH or non-TPH to purchase such data based on their business needs.

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 written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and paragraph (f) of Rule 19b–4[18] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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 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–2020–076 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–*2020–076.* 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–

[15] *Id.*

[16] *See e.g.,* Cboe Options Fees Schedule, Livevol Fees, Open-Close Data. *See also* Nasdaq ISE Options 7 Pricing Schedule, Section 10.A and Nasdaq PHLX Options 7 Pricing Schedule, Section 10, PHLX Options Trade Outline (''PHOTO'').

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

2020–076 and should be submitted on or before September 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18351 Filed 8–20–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89575; File No. SR–ISE–2020–32]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 6, Section 5 (Transfer of Positions)

August 17, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 6, 2020, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 6, Section 5, titled ''Transfer of Positions.''

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 6, Section 5, titled ''Transfer of Positions.'' The proposed rule change is similar to Cboe Exchange, Inc. (''Cboe'') Rule 6.7.[5]

Options 6, Section 5 permits market participants to move positions from one account to another without first exposure of the transaction on the Exchange, provided certain exceptions are met. Specifically, Options 6, Section 5(a)(2)[6] provides that transfers of positions are permissible if from one account to another account where no change in ownership is involved (*i.e.,* accounts of the same Person),[7] provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements. These transfers are subject to, among other things, the requirement to submit prior written notice of the transfers to the Exchange pursuant to Options 6, Section 5(d) and the restriction on effecting these transfers repeatedly or routinely.

The proposed rule change excepts position transfers effected pursuant to Options 6, Section(a)(2) from the prior written notice requirement in paragraph (d) and from repeated, recurring use restriction in paragraph (g). Position transfers pursuant to Options 6, Section(a)(2) do not involve a change in ownership. In other words, such transfers may only occur between the same individual or legal entity. These types of transfers are merely transfers of positions from one account to another, both of which accounts are attributable to the same individual or legal entity, and thus the transferred option positions will continue to be attributable to the same Person. A market participant effecting an position transfer pursuant to Options 6, Section 5(a)(2) is analogous to an individual transferring funds from a checking account to a savings account, or from an account at one bank to an account at another bank—the money still belongs to the same person, who is just holding it in a different account for personal financial reasons.

Because there is no change in ownership of positions transferred pursuant to Options 6, Section 5(a)(2), the Exchange believes it is appropriate to permit them to occur as routinely and repeatedly as a market participant would like. These transfers will continue to be subject to the prohibition on netting set forth in Options 6, Section 5(b), and thus may not result in the closing of any positions. While the position transfers permitted by Options 6, Section 5 were intended to accommodate non-routine and non-recurring transfers, the Exchange believes permitting routine, recurring position transfers that do not result in a change in ownership or reduction in open interest is consistent with the purpose of not being used to circumvent the normal auction purpose. Additionally, given that these transfers may occur on a regular basis in accordance with a market participants' business needs and procedures, the Exchange believes prior written notice would be onerous and would not serve any purpose given the lack of change in ownership and in open interest. The Exchange believes this will provide market participants with additional flexibility to structure their option position accounts as they believe is appropriate and move their positions between accounts as they deem necessary and appropriate for their business and trading needs, including for risk management purposes.

The proposed rule change also corrects an erroneous cross-reference in Rule Options 6, Section 5(d)(1), as the method for determining the transfer price is in paragraph (c) rather than paragraph (e) of Options 6, Section 5.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)

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[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities and Exchange Act Release No. 89389 (July 23, 2020), 85 FR 45709 (July 29, 2020) (SR–Cboe–2020–067) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 6.7 Concerning Off-Floor Transfers).

[6] Options 6, Section 5(a) states, ''*Permissible Transfers.* Existing positions in options listed on the Exchange of a Member or non-Member that are to be transferred on, from, or to the books of a Clearing Member may be transferred off the Exchange if the transfer involves on or more of the following events:. . (2) the transfer of positions from one account to another account where no change in ownership is involved (*i.e.,* accounts of the same Person, provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements;. . .''

[7] For purposes of this rule, the term ''Person'' as an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust, or unincorporated organization, or any governmental entity or agency or political subdivision thereof. *See* Options 6, Section 5(a).

of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [10] 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) [11] 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 the proposed rule change will 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 because it will provide market participants with a more efficient process to transfer open positions between their own accounts in accordance with their own business and trading needs, including to respond to then-current market conditions. Because these transfers would not result in a change in ownership or a reduction in open interest, the Exchange believes the proposed rule change remains consistent with the purpose of Options 6, Section 5, which was to prohibit use of the transfer procedure in circumvention of the normal auction process, as the normal auction process involves the opening or closing of positions through a transaction among multiple market participants. Market participants may maintain different accounts for a variety of reasons, such as the structure of their businesses, the manner in which they trade, their risk management procedures, and for capital purposes. Given that these transfers may occur on a regular basis in accordance with a market participants' business needs and procedures, the Exchange believes prior written notice would be onerous and would not serve any purpose given the lack of change in ownership and in open interest. Therefore, the proposed rule change will benefit investors by permitting market participants to manage the open positions in their accounts in a manner consistent with their businesses.

The Exchange recognizes the numerous benefits of executing options transactions on an exchange, including price transparency, potential price improvement, and a clearing guarantee. However, the Exchange believes it is appropriate to permit position transfers among accounts of the same individual or legal entity where there is no impact on open interest to occur off the exchange, as these benefits are inapplicable to those transfers. These transfers have a narrow scope and are intended to permit market participants to achieve their own business needs. These transfers are not intended to be a competitive trading tool. There is no need for price discovery or improvement, as the transfer merely moves positions to different accounts for the same Person and does not open or close any positions. These transfers will result in no change in ownership. The transactions that resulted in the open positions to be transferred pursuant to Options 6, Section 5(a)(2) were already guaranteed by a clearing member of The Options Clearing Corporation (''OCC''), and the positions may not be closed pursuant to the transfer and will continue to be subject to OCC rules, as they will continue to be held in an account with an OCC clearing member.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change will apply to all market participants in the same manner. All market participants will be able to effect position transfers pursuant to Options 6, Section 5(a)(2) on a recurring or routine basis without providing the Exchange with notice of such transfers. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it relates solely to the notice required for transfers that may occur today, and the frequency with which those transfers may occur. These transfers will continue to not result in a change in ownership or netting, and thus will have no impact on outstanding option positions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative for 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 to so that it may adopt the proposed position transfer rules as soon as possible which, according to the Exchange, would benefit investors and the general public because it will provide Participants with the ability to request a transfer, for limited, non-recurring types of transfers, without the need for exposing those orders on the Exchange. The proposed rule change does not present any unique or novel regulatory issues and is substantively identical to provisions in Cboe Rule 6.7. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

[11] *Id.*

[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 a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–ISE–2020–32 on the subject line.*

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2020–32. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2020–32 and should be submitted on or before September 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18355 Filed 8–20–20; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89584; File No. SR–NYSEArc–2020–56]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend NYSE Arca Rules 5.2–E(j)(3), 5.2–E(j)(8), 5.5–E(g)(2), 8.600–E, and 8.900–E

August 17, 2020.

On June 18, 2020, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Arca Rules 5.2–E(j)(3) (Investment Company Units), 5.2–E(j)(8) (Exchange-Traded Fund Shares), 5.5–E(g)(2), 8.600–E (Managed Fund Shares), and 8.900–E (Managed Portfolio Shares) to (1) remove the listing requirement that, following the initial twelve-month period after commencement of trading of a series of Investment Company Units, Exchange-Traded Fund Shares, Managed Fund Shares, and Managed Portfolio Shares, respectively, on the Exchange that the applicable fund has at least 50 beneficial holders, and (2) require that a series of Investment Company Units, Exchange-Traded Fund Shares, Managed Fund Shares, and Managed Portfolio Shares, respectively, have at least one creation unit outstanding on an initial and continued listing basis. The proposed rule change was published for comment in the **Federal Register** on July 7, 2020.[3] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission will either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is August 21, 2020. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates October 5, 2020 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEArca–2020–56).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18345 Filed 8–20–20; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 89197 (June 30, 2020), 85 FR 40720.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89582; File No. SR–Phlx–2020–39]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 6, Section 5 (Transfer of Positions)

August 17, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 6, 2020, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 6, Section 5, titled ''Transfer of Positions.''

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 6, Section 5, titled ''Transfer of Positions.'' The proposed rule change is similar to Cboe Exchange, Inc. (''Cboe'') Rule 6.7.[5]

Options 6, Section 5 permits market participants to move positions from one account to another without first exposure of the transaction on the Exchange, provided certain exceptions are met. Specifically, Options 6, Section 5(a)(2) [6] provides that transfers of positions are permissible if from one account to another account where no change in ownership is involved (*i.e.,* accounts of the same Person),[7] provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements. These transfers are subject to, among other things, the requirement to submit prior written notice of the transfers to the Exchange pursuant to Options 6, Section 5(d) and the restriction on effecting these transfers repeatedly or routinely.

The proposed rule change excepts position transfers effected pursuant to Options 6, Section(a)(2) from the prior written notice requirement in paragraph (d) and from repeated, recurring use restriction in paragraph (g). Position transfers pursuant to Options 6, Section(a)(2) do not involve a change in ownership. In other words, such transfers may only occur between the same individual or legal entity. These types of transfers are merely transfers of positions from one account to another, both of which accounts are attributable to the same individual or legal entity, and thus the transferred option positions will continue to be attributable to the same Person. A market participant effecting an position transfer pursuant to Options 6, Section 5(a)(2) is analogous to an individual transferring funds from a checking account to a savings account, or from an account at one bank to an account at another bank—the money still belongs to the same person, who is just holding it in a different account for personal financial reasons.

Because there is no change in ownership of positions transferred pursuant to Options 6, Section 5(a)(2), the Exchange believes it is appropriate to permit them to occur as routinely and repeatedly as a market participant would like. These transfers will continue to be subject to the prohibition on netting set forth in Options 6, Section 5(b), and thus may not result in the closing of any positions. While the position transfers permitted by Options 6, Section 5 were intended to accommodate non-routine and non-recurring transfers, the Exchange believes permitting routine, recurring position transfers that do not result in a change in ownership or reduction in open interest is consistent with the purpose of not being used to circumvent the normal auction purpose. Additionally, given that these transfers may occur on a regular basis in accordance with a market participants' business needs and procedures, the Exchange believes prior written notice would be onerous and would not serve any purpose given the lack of change in ownership and in open interest. The Exchange believes this will provide market participants with additional flexibility to structure their option position accounts as they believe is appropriate and move their positions between accounts as they deem necessary and appropriate for their business and trading needs, including for risk management purposes.

The proposed rule change also corrects an erroneous cross-reference in Rule Options 6, Section 5(d)(1), as the method for determining the transfer price is in paragraph (c) rather than paragraph (e) of Options 6, Section 5.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [10] 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) [11] 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 the proposed rule change will remove impediments to and perfect the mechanism of a free and open market

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities and Exchange Act Release No. 89389 (July 23, 2020), 85 FR 45709 (July 29, 2020) (SR–Cboe–2020–067) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 6.7 Concerning Off-Floor Transfers).

[6] Options 6, Section 5(a) states, ''*Permissible Transfers.* Existing positions in options listed on the Exchange of a member or member organization or non-member or non-member organization that are to be transferred on, from, or to the books of a Clearing Member may be transferred off the Exchange if the transfer involves one or more of the following events: . . . . . (2) the transfer of positions from one account to another account where no change in ownership is involved (*i.e.,* accounts of the same Person, provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements . . .''

[7] For purposes of this rule, the term ''Person'' as an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust, or unincorporated organization, or any governmental entity or agency or political subdivision thereof. *See* Options 6, Section 5(a).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

[11] *Id.*

and a national market system, and, in general, to protect investors and the public interest because it will provide market participants with a more efficient process to transfer open positions between their own accounts in accordance with their own business and trading needs, including to respond to then-current market conditions. Because these transfers would not result in a change in ownership or a reduction in open interest, the Exchange believes the proposed rule change remains consistent with the purpose of Options 6, Section 5, which was to prohibit use of the transfer procedure in circumvention of the normal auction process, as the normal auction process involves the opening or closing of positions through a transaction among multiple market participants. Market participants may maintain different accounts for a variety of reasons, such as the structure of their businesses, the manner in which they trade, their risk management procedures, and for capital purposes. Given that these transfers may occur on a regular basis in accordance with a market participants' business needs and procedures, the Exchange believes prior written notice would be onerous and would not serve any purpose given the lack of change in ownership and in open interest. Therefore, the proposed rule change will benefit investors by permitting market participants to manage the open positions in their accounts in a manner consistent with their businesses.

The Exchange recognizes the numerous benefits of executing options transactions on an exchange, including price transparency, potential price improvement, and a clearing guarantee. However, the Exchange believes it is appropriate to permit position transfers among accounts of the same individual or legal entity where there is no impact on open interest to occur off the exchange, as these benefits are inapplicable to those transfers. These transfers have a narrow scope and are intended to permit market participants to achieve their own business needs. These transfers are not intended to be a competitive trading tool. There is no need for price discovery or improvement, as the transfer merely moves positions to different accounts for the same Person and does not open or close any positions. These transfers will result in no change in ownership. The transactions that resulted in the open positions to be transferred pursuant to Options 6, Section 5(a)(2) were already guaranteed by a clearing member of The Options Clearing Corporation (''OCC''), and the positions may not be closed pursuant to the transfer and will continue to be subject to OCC rules, as they will continue to be held in an account with an OCC clearing member.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change will apply to all market participants in the same manner. All market participants will be able to effect position transfers pursuant to Options 6, Section 5(a)(2) on a recurring or routine basis without providing the Exchange with notice of such transfers. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it relates solely to the notice required for transfers that may occur today, and the frequency with which those transfers may occur. These transfers will continue to not result in a change in ownership or netting, and thus will have no impact on outstanding option positions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative for 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 to so that it may adopt the proposed position transfer rules as soon as possible which, according to the Exchange, would benefit investors and the general public because it will provide Participants with the ability to request a transfer, for limited, non-recurring types of transfers, without the need for exposing those orders on the Exchange. The proposed rule change does not present any unique or novel regulatory issues and is substantively identical to provisions in Cboe Rule 6.7. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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–Phlx–2020–39 on the subject line.*

[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 a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2020–39. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2020–39 and should be submitted on or before September 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18348 Filed 8–20–20; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89574; File No. SR–NASDAQ–2020–050]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 6, Section 5 (Transfer of Positions)

August 17, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 6, 2020, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend The Nasdaq Options Market LLC Rules at Options 6, Section 5, titled "Transfer of Positions."

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 6, Section 5, titled "Transfer of Positions." The proposed rule change is similar to Cboe Exchange, Inc. ("Cboe") Rule 6.7.[5]

Options 6, Section 5 permits market participants to move positions from one account to another without first exposure of the transaction on the Exchange, provided certain exceptions are met. Specifically, Options 6, Section 5(a)(2)[6] provides that transfers of positions are permissible if from one account to another account where no change in ownership is involved (*i.e.,* accounts of the same Person),[7] provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements. These transfers are subject to, among other things, the requirement to submit prior written notice of the transfers to the Exchange pursuant to Options 6, Section 5(d) and the restriction on effecting these transfers repeatedly or routinely.

The proposed rule change excepts position transfers effected pursuant to Options 6, Section(a)(2) from the prior written notice requirement in paragraph (d) and from repeated, recurring use restriction in paragraph (g). Position transfers pursuant to Options 6, Section(a)(2) do not involve a change in ownership. In other words, such transfers may only occur between the same individual or legal entity. These types of transfers are merely transfers of positions from one account to another, both of which accounts are attributable to the same individual or legal entity,

[5] *See* Securities and Exchange Act Release No. 89389 (July 23, 2020), 85 FR 45709 (July 29, 2020) (SR–Cboe–2020–067) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 6.7 Concerning Off-Floor Transfers).

[6] Options 6, Section 5(a) states, "*Permissible Transfers.* Existing positions in options listed on the Exchange of a Participant or non-Participant that are to be transferred on, from, or to the books of a Clearing Participant may be transferred off the Exchange if the transfer involves on or more of the following events: . . . . (2) the transfer of positions from one account to another account where no change in ownership is involved (*i.e.,* accounts of the same Person, provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements;. . ."

[7] For purposes of this rule, the term "Person" as an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust, or unincorporated organization, or any governmental entity or agency or political subdivision thereof. See Options 6, Section 5(a).

and thus the transferred option positions will continue to be attributable to the same Person. A market participant effecting an position transfer pursuant to Options 6, Section 5(a)(2) is analogous to an individual transferring funds from a checking account to a savings account, or from an account at one bank to an account at another bank—the money still belongs to the same person, who is just holding it in a different account for personal financial reasons.

Because there is no change in ownership of positions transferred pursuant to Options 6, Section 5(a)(2), the Exchange believes it is appropriate to permit them to occur as routinely and repeatedly as a market participant would like. These transfers will continue to be subject to the prohibition on netting set forth in Options 6, Section 5(b), and thus may not result in the closing of any positions. While the position transfers permitted by Options 6, Section 5 were intended to accommodate non-routine and non-recurring transfers, the Exchange believes permitting routine, recurring position transfers that do not result in a change in ownership or reduction in open interest is consistent with the purpose of not being used to circumvent the normal auction purpose. Additionally, given that these transfers may occur on a regular basis in accordance with a market participants' business needs and procedures, the Exchange believes prior written notice would be onerous and would not serve any purpose given the lack of change in ownership and in open interest. The Exchange believes this will provide market participants with additional flexibility to structure their option position accounts as they believe is appropriate and move their positions between accounts as they deem necessary and appropriate for their business and trading needs, including for risk management purposes.

The proposed rule change also corrects an erroneous cross-reference in Rule Options 6, Section 5(d)(1), as the method for determining the transfer price is in paragraph (c) rather than paragraph (e) of Options 6, Section 5.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [10] 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) [11] 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 the proposed rule change will 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 because it will provide market participants with a more efficient process to transfer open positions between their own accounts in accordance with their own business and trading needs, including to respond to then-current market conditions. Because these transfers would not result in a change in ownership or a reduction in open interest, the Exchange believes the proposed rule change remains consistent with the purpose of Options 6, Section 5, which was to prohibit use of the transfer procedure in circumvention of the normal auction process, as the normal auction process involves the opening or closing of positions through a transaction among multiple market participants. Market participants may maintain different accounts for a variety of reasons, such as the structure of their businesses, the manner in which they trade, their risk management procedures, and for capital purposes. Given that these transfers may occur on a regular basis in accordance with a market participants' business needs and procedures, the Exchange believes prior written notice would be onerous and would not serve any purpose given the lack of change in ownership and in open interest. Therefore, the proposed rule change will benefit investors by permitting market participants to manage the open positions in their accounts in a manner consistent with their businesses.

The Exchange recognizes the numerous benefits of executing options transactions on an exchange, including price transparency, potential price improvement, and a clearing guarantee. However, the Exchange believes it is appropriate to permit position transfers among accounts of the same individual or legal entity where there is no impact on open interest to occur off the exchange, as these benefits are inapplicable to those transfers. These transfers have a narrow scope and are intended to permit market participants to achieve their own business needs. These transfers are not intended to be a competitive trading tool. There is no need for price discovery or improvement, as the transfer merely moves positions to different accounts for the same Person and does not open or close any positions. These transfers will result in no change in ownership. The transactions that resulted in the open positions to be transferred pursuant to Options 6, Section 5(a)(2) were already guaranteed by a clearing member of The Options Clearing Corporation (''OCC''), and the positions may not be closed pursuant to the transfer and will continue to be subject to OCC rules, as they will continue to be held in an account with an OCC clearing member.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change will apply to all market participants in the same manner. All market participants will be able to effect position transfers pursuant to Options 6, Section 5(a)(2) on a recurring or routine basis without providing the Exchange with notice of such transfers. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it relates solely to the notice required for transfers that may occur today, and the frequency with which those transfers may occur. These transfers will continue to not result in a change in ownership or netting, and thus will have no impact on outstanding option positions.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

[11] *Id.*

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative for 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 to so that it may adopt the proposed position transfer rules as soon as possible which, according to the Exchange, would benefit investors and the general public because it will provide Participants with the ability to request a transfer, for limited, non-recurring types of transfers, without the need for exposing those orders on the Exchange. The proposed rule change does not present any unique or novel regulatory issues and is substantively identical to provisions in Cboe Rule 6.7. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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–NASDAQ–2020–050 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2020–050. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2020–050 and should be submitted on or before September 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18352 Filed 8–20–20; 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 a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89577; File No. SR–MRX–2020–15]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 6, Section 5 (Transfer of Positions)

August 17, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 6, 2020, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 6, Section 5, titled ''Transfer of Positions.''

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/mrx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 6, Section 5, titled ''Transfer of Positions.'' The proposed rule change is similar to Cboe Exchange, Inc. (''Cboe'') Rule 6.7.[5]

Options 6, Section 5 permits market participants to move positions from one account to another without first exposure of the transaction on the Exchange, provided certain exceptions are met. Specifically, Options 6, Section 5(a)(2)[6] provides that transfers of positions are permissible if from one account to another account where no change in ownership is involved (*i.e.,* accounts of the same Person),[7] provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements. These transfers are subject to, among other things, the requirement to submit prior written notice of the transfers to the Exchange pursuant to Options 6, Section 5(d) and the restriction on effecting these transfers repeatedly or routinely.

The proposed rule change excepts position transfers effected pursuant to Options 6, Section(a)(2) from the prior written notice requirement in paragraph (d) and from repeated, recurring use restriction in paragraph (g). Position transfers pursuant to Options 6, Section(a)(2) do not involve a change in ownership. In other words, such transfers may only occur between the same individual or legal entity. These types of transfers are merely transfers of positions from one account to another, both of which accounts are attributable to the same individual or legal entity, and thus the transferred option positions will continue to be attributable to the same Person. A market participant effecting an position transfer pursuant to Options 6, Section 5(a)(2) is analogous to an individual transferring funds from a checking account to a savings account, or from an account at one bank to an account at another bank—the money still belongs to the same person, who is just holding it in a different account for personal financial reasons.

Because there is no change in ownership of positions transferred pursuant to Options 6, Section 5(a)(2), the Exchange believes it is appropriate to permit them to occur as routinely and repeatedly as a market participant would like. These transfers will continue to be subject to the prohibition on netting set forth in Options 6, Section 5(b), and thus may not result in the closing of any positions. While the position transfers permitted by Options 6, Section 5 were intended to accommodate non-routine and non-recurring transfers, the Exchange believes permitting routine, recurring position transfers that do not result in a change in ownership or reduction in open interest is consistent with the purpose of not being used to circumvent the normal auction purpose. Additionally, given that these transfers may occur on a regular basis in accordance with a market participants' business needs and procedures, the Exchange believes prior written notice would be onerous and would not serve any purpose given the lack of change in ownership and in open interest. The Exchange believes this will provide market participants with additional flexibility to structure their option position accounts as they believe is appropriate and move their positions between accounts as they deem necessary and appropriate for their business and trading needs, including for risk management purposes.

The proposed rule change also corrects an erroneous cross-reference in Rule Options 6, Section 5(d)(1), as the method for determining the transfer price is in paragraph (c) rather than paragraph (e) of Options 6, Section 5.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] 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)[11] 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 the proposed rule change will 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 because it will provide market participants with a more efficient process to transfer open positions between their own accounts in accordance with their own business and trading needs, including to respond to then-current market conditions. Because these transfers would not result in a change in ownership or a reduction in open interest, the Exchange believes the proposed rule change remains consistent with the purpose of Options 6, Section 5, which was to prohibit use of the transfer procedure in circumvention of the normal auction process, as the normal auction process involves the opening or closing of positions through a transaction among multiple market participants. Market participants may maintain different accounts for a variety of reasons, such as the structure of their businesses, the manner in which they trade, their risk management procedures, and for capital purposes. Given that these transfers may occur on a regular basis in accordance with a market participants' business needs and procedures, the Exchange believes prior written notice would be onerous and would not serve any purpose given the lack of change in ownership and in open interest. Therefore, the proposed rule change will benefit investors by permitting

[5] *See* Securities and Exchange Act Release No. 89389 (July 23, 2020), 85 FR 45709 (July 29, 2020) (SR-Cboe-2020–067) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 6.7 Concerning Off-Floor Transfers).

[6] Options 6, Section 5(a) states, ''*Permissible Transfers.* Existing positions in options listed on the Exchange of a Member or non-Member that are to be transferred on, from, or to the books of a Clearing Member may be transferred off the Exchange if the transfer involves on or more of the following events:. . . (2) the transfer of positions from one account to another account where no change in ownership is involved (*i.e.,* accounts of the same Person, provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements; . . .''

[7] For purposes of this rule, the term ''Person'' as an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust, or unincorporated organization, or any governmental entity or agency or political subdivision thereof. *See* Options 6, Section 5(a).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

[11] *Id.*

market participants to manage the open positions in their accounts in a manner consistent with their businesses.

The Exchange recognizes the numerous benefits of executing options transactions on an exchange, including price transparency, potential price improvement, and a clearing guarantee. However, the Exchange believes it is appropriate to permit position transfers among accounts of the same individual or legal entity where there is no impact on open interest to occur off the exchange, as these benefits are inapplicable to those transfers. These transfers have a narrow scope and are intended to permit market participants to achieve their own business needs. These transfers are not intended to be a competitive trading tool. There is no need for price discovery or improvement, as the transfer merely moves positions to different accounts for the same Person and does not open or close any positions. These transfers will result in no change in ownership. The transactions that resulted in the open positions to be transferred pursuant to Options 6, Section 5(a)(2) were already guaranteed by a clearing member of The Options Clearing Corporation (''OCC''), and the positions may not be closed pursuant to the transfer and will continue to be subject to OCC rules, as they will continue to be held in an account with an OCC clearing member.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change will apply to all market participants in the same manner. All market participants will be able to effect position transfers pursuant to Options 6, Section 5(a)(2) on a recurring or routine basis without providing the Exchange with notice of such transfers. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it relates solely to the notice required for transfers that may occur today, and the frequency with which those transfers may occur. These transfers will continue to not result in a change in ownership or netting, and thus will have no impact on outstanding option positions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b-4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative for 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 to so that it may adopt the proposed position transfer rules as soon as possible which, according to the Exchange, would benefit investors and the general public because it will provide Participants with the ability to request a transfer, for limited, non-recurring types of transfers, without the need for exposing those orders on the Exchange. The proposed rule change does not present any unique or novel regulatory issues and is substantively identical to provisions in Cboe Rule 6.7. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[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 a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2020–15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MRX–2020–15. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make

available publicly. All submissions should refer to File Number SR–MRX–2020–15 and should be submitted on or before September 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18344 Filed 8–20–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–325, OMB Control No. 3235–0385]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 15g–9

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comment on the collection of information described below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (OMB) for extension and approval.

Section 15(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (the ''Exchange Act'') authorizes the Commission to promulgate rules that prescribe means reasonably designed to prevent fraudulent, deceptive, or manipulative practices in connection with over-the-counter (''OTC'') securities transactions. Pursuant to this authority, the Commission in 1989 adopted Rule 15a–6, which was subsequently redesignated as Rule 15g–9, 17 CFR 240.15g–9 (the ''Rule''). The Rule requires broker-dealers to produce a written suitability determination for, and to obtain a written customer agreement to, certain recommended transactions in penny stocks that are not registered on a national securities exchange, and whose issuers do not meet certain minimum financial standards. The Rule is intended to prevent the indiscriminate use by broker-dealers of fraudulent, high pressure telephone sales campaigns to sell penny stocks to unsophisticated customers.

The Commission staff estimates that there are approximately 182 broker-dealers subject to the Rule. The burden of the Rule on a respondent varies widely depending on the frequency with which new customers are solicited. On the average for all respondents, the staff has estimated that respondents process three new customers per week, or approximately 156 new customer suitability determinations per year. We also estimate that a broker-dealer would expend approximately one-half hour per new customer in obtaining, reviewing, and processing (including transmitting to the customer) the information required by Rule 15g–9, and each respondent would consequently spend 78 hours annually (156 customers × .5 hours) obtaining the information required in the rule. We determined, based on the estimate of 182 broker-dealer respondents, that the current annual burden of Rule 15g–9 is 14,196 hours (182 respondents × 78 hours).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 18, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18401 Filed 8–20–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89583; File No. SR–CboeBZX–2020–063]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Adopt Fees for a New Data Product on its Equity Options Platform To Be Known as Intraday Open-Close Data

August 17, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 3, 2020, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 BZX Exchange, Inc. (the ''Exchange'' or ''BZX Options'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to adopt fees for a new data product on its equity options platform (''BZX Options'') to be known as Intraday Open-Close Data. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), 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.

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently adopted a new data product on BZX to be known as Intraday Open-Close Data, which will be available for purchase to BZX Members and non-Members.[3] The Exchange now proposes to adopt fees for Intraday Open-Close Data. Cboe LiveVol, LLC (''LiveVol''), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., will make the Intraday Open-Close Data available for purchase to Members and non-Members on the LiveVol DataShop website (*datashop.cboe.com*).

By way of background, the Exchange historically offered Open-Close Data, which is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Open-Close Data is proprietary BZX trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed.

The Exchange recently adopted a similar product: Intraday Open-Close Data. The Intraday Open-Close Data will provide similar information to that of Open-Close Data but will be produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period. For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current ''snapshot'' and all previous ''snapshots.'' The Intraday Open-Close Data will provide a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume will be further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Intraday Open-Close Data is also proprietary BZX trade data and does not include trade data from any other exchange. In contrast to the existing Open-Close Data product, the Intraday Open-Close Data will not provide execution price.

The Exchange anticipates a wide variety of market participants to purchase Intraday Open-Close Data, including, but not limited to, individual customers, buy-side investors, and investment banks. The Exchange believes the Intraday Open-Close Data product may also provide helpful trading information regarding investor sentiment that may allow market participants to make better trading decisions throughout the day and may be used to create and test trading models and analytical strategies and provides comprehensive insight into trading on BZX. For example, intraday open data may allow a market participant to identify new interest or possible risks throughout the trading day, while intraday closing data may allow a market participant to identify fading interests in a security. The product is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange notes that other exchanges offer a similar data product.[4]

The Exchange proposes to provide in its Fee Schedule that Members and non-Members may purchase Intraday Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (historical file). The Exchange proposes to assess a monthly fee of $1,500 (or $18,000 per year) for subscribing to the data feed. The Exchange also proposes to assess a fee of $750 per request per month for an ad-hoc request of historical Intraday Open/Close data covering all Exchange-listed securities. An ad-hoc request can be for any number of months beginning with January 2020 for which the data is available.[5] The proposed subscription and ad-hoc fees will apply both to Members or non-Members. The Exchange notes that other exchanges provide similar data products that may be purchased on both a subscription and ad-hoc basis and are similarly priced.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of 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 remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposal to adopt fees for Intraday Open-Close Data is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(4) of the Act[9] in particular, in that it is an equitable allocation of dues, fees and other charges among its members and other recipients of Exchange data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation

[3] *See* SR–BZX–2020–059.

[4] *See* Securities Exchange Act Release No. 61317 (January 8, 2010), 75 FR 2915 (January 19, 2010) (SR–ISE–2009–103); Securities Exchange Act Release No. 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR–Phlx–2010–121); Securities Exchange Act Release No. 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR–NASDAQ–2011–144); and Securities Exchange Act Release No. 81632 (September 15, 2017), 82 FR 44235 (September 21, 2017) (SR–GEMX–2017–42).

[5] For example, a Member or non-Member that requests historical Intraday Open/Close Data for the months of January 2020 and February 2020, would be assessed a total of $1,000. The Exchange notes that it may make historical data prior to January 2020 available in the future and that such historical data would be available to all Members or non-Members.

[6] *See* Price List—U.S. Derivatives Data for Nasdaq PHLX, LLC (''PHLX''), The Nasdaq Stock Market, LLC (''Nasdaq''), Nasdaq ISE, LLC (''ISE''), and Nasaq GEMX, LLC (''GEMX''), available at *http://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#web.* Particularly, PHLX offers ''Nasdaq PHLX Options Trade Outline (PHOTO)'' and assesses $1,500 per month for an intra-day subscription and $750 per month for historical reports; Nasdaq offers the ''Nasdaq Options Trade Outline (NOTO)'' and assesses $750 per month for an intra-day subscription and $500 per month for historical reports; ISE offers the ''Nasdaq ISE Open/Close Trade Profile'' and assesses $2,000 per month for an intra-day subscription and $1,000 per month for historical reports; and GEMX offers the ''Nasdaq GEMX Open/Close Trade Profile'' and assesses $1,000 per month for an intra-day subscription and $750 per month for historical reports.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(4).

and competition for the provision of market data. Particularly, Intraday Open-Close Data further broadens the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The data product also promotes increased transparency through the dissemination of Intraday Open-Close Data. Particularly, information regarding opening and closing activity across different option series during the trading day may indicate investor sentiment, which may allow market participants to make better informed trading decisions throughout the day. Subscribers to the data may also be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes Intraday Open-Close Data provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading. Moreover, other exchanges offer a similar data product.[10]

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 17% of the market share and currently the Exchange represents only approximately 8.15% of the market share.[11] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [12] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of the recently introduced Intraday Open-Close Data product.

The Exchange believes the proposed fees are reasonable as the proposed fees are both modest and similar to, or even lower than, the fees assessed by other exchanges that provide similar data products.[13] Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. Like the Exchange's Intraday Open-Close Data product, other exchanges offer similar data products that each provide insight into trading on those markets and may likewise aid in assessing investor sentiment. Although each of these similar Intraday Open-Close data products provide only proprietary trade data and not trade data from other exchanges, it's possible investors are still able to gauge overall investor sentiment across different option series based on open and closing interest on any one exchange.[14] Similarly, market participants may be able to analyze option trade and volume data, and create and test trading models and analytical strategies using only Intraday Open-Close data relating to trading activity on one or more of the other markets that provide similar data products. As such, if a market participant views another exchange's Intraday Open-Close data as more attractive than its proposed Intraday Open-Close data product, then such market participant can merely choose not to purchase the Exchange's Intraday Open-Close Data and instead purchase another exchange's Intraday Open-Close data product, which offer similar data points, albeit based on that other market's trading activity.

The Exchange also believes the proposed fees are reasonable as they would support the introduction of a new market data product that is designed to aid investors by providing insight into trading on BZX Options. The recently adopted Intraday Open-Close Data would provide options market participants with valuable information about opening and closing transactions executed on the Exchange throughout the trading day, similar to other trade data products offered by competing options exchanges. In turn, this data would assist market participants in gauging investor sentiment and trading activity, resulting in potentially better informed trading decisions. As noted above, users may also use such data to create and test trading models and analytical strategies.

Selling market data, such as Intraday Open-Close Data, is also a means by which exchanges compete to attract business. To the extent that the Exchange is successful in attracting subscribers for the Intraday Open-Close Data, it may earn trading revenues and further enhance the value of its data products. If the market deems the proposed fees to be unfair or inequitable, firms can diminish or discontinue their use of the data and/or avail themselves of similar products offered by other exchanges.[15] The Exchange therefore believes that the proposed fees for Intraday Open-Close Data reflect the competitive environment and would be properly assessed on Member or non-Member users. The Exchange also believes the proposed fees are equitable and not unfairly discriminatory as the fees would apply equally to all users who choose to purchase such data. The Exchange's proposed fees would not differentiate between subscribers that purchase Intraday Open-Close Data and are set at a modest level that would allow any interested Member or non-Member to purchase such data based on their business needs.

As noted above, the Exchange anticipates a wide variety of market participants to purchase Intraday Open-Close Data, including but not limited to individual customers, buy-side investors and investment banks. The Exchange reiterates that the decision as to whether or not to purchase the Intraday Open-Close Data is entirely optional for all potential subscribers. Indeed, no market participant is required to purchase the Intraday Open-Close Data, and the Exchange is not required to make the Intraday Open-Close Data available to all investors. Rather, the Exchange is voluntarily making Intraday Open-Close Data available, as requested by customers, and market participants may choose to receive (and pay for) this data based on their own business needs. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

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

[10] *See* supra note 4.

[11] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (July 31, 2020), available at *https://markets.cboe.com/us/options/market_statistics/.*

[12] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[13] *See* supra note 6.

[14] The exchange notes that its Intraday Open-Close data product does not include data on any exclusive, singly-listed option series.

[15] *See* supra note 6.

of the purposes of the Act. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to sell a data product similar to those offered by other competitor options exchanges.[16] The Exchange made Open-Close Data available in order to keep pace with changes in the industry and evolving customer needs, and believes the data product will contribute to robust competition among national securities exchanges. At least four other U.S. options exchanges offer a market data product that is substantially similar to the Intraday Open-Close Data. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price Intraday Open-Close Data is constrained by competition among exchanges that offer similar data products to their customers. As discussed, there are currently a number of similar products available to market participants and investors. At least four other U.S. options exchanges offer a market data product that is substantially similar to the Intraday Open-Close Data, which the Exchange must consider in its pricing discipline in order to compete for the market data.[17] For example, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as discussed, market participants are under no obligation to utilize. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange also does not believe the proposed fees would cause any unnecessary or in appropriate burden on intermarket competition as other exchanges are free to introduce their own comparable data product and lower their prices to better compete with the Exchange's offering. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed product and fees apply uniformly to any purchaser, in that it does not differentiate between subscribers that purchase Intraday Open-Close Data. The proposed fees are set at a modest level that would allow any interested Member or non-Member to purchase such data based on their business needs.

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 written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and paragraph (f) of Rule 19b–4 [19] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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 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–CboeBZX–2020–063 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–CboeBZX–2020–063. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2020–063 and should be submitted on or before September 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18356 Filed 8–20–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89580; File No. SR–IEX–2020–11]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend IEX Rules 2.220(a)(7) and 11.410(a) To Include MEMX LLC in the List of Away Trading Centers to Which the Exchange Routes and the Market Data Sources the Exchange Will Use To Determine MEMX's Top of Book Quotation

August 17, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the

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[16] *Id.*

[17] *See e.g.,* Cboe Options Fees Schedule, Livevol Fees, Open-Close Data. *See also* Nasdaq ISE Options 7 Pricing Schedule, Section 10.A and Nasdaq PHLX Options 7 Pricing Schedule, Section 10, PHLX Options Trade Outline (''PHOTO'').

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f).

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on August 12, 2020, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,[4] and Rule 19b–4 thereunder,[5] IEX is filing with the Commission a proposed rule change to amend IEX Rules 2.220(a)(7) and 11.410(a) to include MEMX LLC (''MEMX'') in the list of away trading centers to which the Exchange routes and the market data sources the Exchange will use to determine MEMX's Top of Book[6] quotation, in anticipation of MEMX's planned launch. The Exchange has designated this rule change as ''non-controversial'' under Section 19(b)(3)(A) of the Act[7] and provided the Commission with the notice required by Rule 19b–4(f)(6) thereunder.[8]

The text of the proposed rule change is available at the Exchange's website at *www.iextrading.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 these statement [sic] 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.

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] *See* IEX Rule 11.410(a)(1).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend IEX Rules 2.220(a)(7)[9] and 11.410(a)[10] to include MEMX LLC (''MEMX'') in the list of away trading centers to which the Exchange routes and the market data sources the Exchange will use to determine Top of Book[11] quotations, in anticipation of MEMX's planned exchange launch on September 4, 2020.[12]

Specifically, the Exchange proposes to amend IEX Rule 2.220(a)(7) to add MEMX LLC to the list of away trading centers to which IEX Services routes orders. As set forth in IEX Rule 11.230(b)(2), IEX Services routes eligible orders to away trading centers with accessible Protected Quotations in compliance with Regulation NMS Rule 611.[13] The Exchange must include MEMX in its list of away trading centers to which it routes, because MEMX's best-priced, displayed quotation will be a Protected Quotation under Regulation NMS Rule 600(b)(62)[14] for purposes of Regulation NMS Rule 611.[15]

The Exchange also proposes to amend and update the table in IEX Rule 11.410(a) specifying the primary and secondary sources for MEMX market data as a result of MEMX's establishment of MEMOIR Depth and MEMOIR Top[16] (''MEMX Market Data Feeds'' or ''direct feeds''). As specified in IEX Rule 11.410(a)(2), the Exchange uses market data from each away trading center that produces a Protected Quotation[17] to determine each away trading center's Top of Book quotation, as well as the NBBO[18] for certain reporting, regulatory and compliance systems within IEX. As proposed, the Exchange will use the direct feeds as the primary source to determine MEMX's Top of Book quotes. The Exchange also proposes to use securities information processor (''SIP'') data, *i.e.,* CQS SIP data for securities reported under the Consolidated Quotation Services and Consolidated Tape Association plans and UQDF SIP data for securities reported under the Nasdaq Unlisted Trading Privileges plan, as the secondary source to determine MEMX's Top of Book quotes.

[9] IEX Rule 2.220(a)(7) lists the away trading centers that IEX Services LLC (''IEX Services'') routes to as outbound router for the Exchange.

[10] IEX Rule 11.410(a) specifies the market data sources for each away trading center that the Exchange uses for necessary price reference points.

[11] *See* IEX Rule 11.410(a)(1).

[12] *See https://memx.com/memx-update/.*

[13] 17 CFR 242.611.

[14] 17 CFR 242.600(b)(62).

[15] *See* Securities Exchange Act Release No. 88806 (May 4, 2020), 85 FR 27451, 27461 (May 8, 2020) (File No. 10–237) (Order approving MEMX application for registration as a national securities exchange).

[16] *See* MEMX Rule 13.8.

[17] *See* IEX Rule 1.160(bb).

[18] *See* IEX Rule 1.160(u).

The Exchange is not proposing any other changes to IEX Rules 2.220(a)(7) and 11.410. The proposed changes do not alter the manner in which orders are handled or routed by the Exchange.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)[19] of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act[20] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

For the reasons discussed in the Purpose section, the Exchange believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because including MEMX in the list of away trading centers to which IEX routes and including the MEMX Market Data Feeds in the primary sources of market data the Exchange will use to determine away trading center Top of Book quotes (with the SIP as the secondary source) will facilitate the Exchange's compliance with the applicable requirements of Regulation NMS.

Additionally, adding MEMX to the list of away trading centers to which IEX routes and listing the MEMX Market Data Feeds as the primary source of market data the Exchange will use to determine away trading center Top of Book quotes (with the SIP as the secondary source) provides transparency with respect to the away trading centers to which IEX Services may route orders and the source of market data the Exchange will use to determine MEMX's Top of Book quotes.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance

[19] 15 U.S.C. 78f.

[20] 15 U.S.C. 78f(b)(5).

of the purposes of the Act. The Exchange believes that the proposed update does not impact competition in any respect since its purpose is to enhance transparency with respect to the operation of the Exchange and its use of market data feeds, and to update an away market name.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [21] and Rule 19b–4(f)(6) thereunder.[22]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [23] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [24] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay.

The proposed rule change will merely amend IEX rules to reflect the launch of MEMX as an away trading center with a Protected Quote and specify that IEX will route orders to MEMX and use the MEMX Market Data Feeds as the primary source, and the SIP as the secondary source, to determine MEMX's Top of Book quotation.

The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to implement the proposed rule change concurrent with MEMX's exchange launch of equities trading, thereby facilitating IEX's compliance with the applicable requirements of Regulation NMS and providing clarity to market participants with respect to whether IEX routes to MEMX and how IEX determines MEMX's Top of Book quotation. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change does not raise any new or novel issues. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.[25]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [26] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–IEX–2020–11 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–IEX–2020–11. 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 will also be available for inspection and copying at the IEX's principal office and on its internet website at *www.iextrading.com.* All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–IEX–2020–11 and should be submitted on or before September 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18349 Filed 8–20–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89578; File No. SR–BX–2020–020]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 6, Section 5 (Transfer of Positions)

August 17, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 6, 2020, Nasdaq BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial"

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[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[23] 17 CFR 240.19b–4(f)(6).

[24] 17 CFR 240.19b–4(f)(6)(iii).

[25] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[26] 15 U.S.C. 78s(b)(2)(B).

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 6, Section 5, titled ''Transfer of Positions.''

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 6, Section 5, titled ''Transfer of Positions.'' The proposed rule change is similar to Cboe Exchange, Inc. (''Cboe'') Rule 6.7.[5]

Options 6, Section 5 permits market participants to move positions from one account to another without first exposure of the transaction on the Exchange, provided certain exceptions are met. Specifically, Options 6, Section 5(a)(2)[6] provides that transfers of positions are permissible if from one account to another account where no change in ownership is involved (*i.e.,* accounts of the same Person),[7] provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements. These transfers are subject to, among other things, the requirement to submit prior written notice of the transfers to the Exchange pursuant to Options 6, Section 5(d) and the restriction on effecting these transfers repeatedly or routinely.

The proposed rule change excepts position transfers effected pursuant to Options 6, Section(a)(2) from the prior written notice requirement in paragraph (d) and from repeated, recurring use restriction in paragraph (g). Position transfers pursuant to Options 6, Section(a)(2) do not involve a change in ownership. In other words, such transfers may only occur between the same individual or legal entity. These types of transfers are merely transfers of positions from one account to another, both of which accounts are attributable to the same individual or legal entity, and thus the transferred option positions will continue to be attributable to the same Person. A market participant effecting an position transfer pursuant to Options 6, Section 5(a)(2) is analogous to an individual transferring funds from a checking account to a savings account, or from an account at one bank to an account at another bank—the money still belongs to the same person, who is just holding it in a different account for personal financial reasons.

Because there is no change in ownership of positions transferred pursuant to Options 6, Section 5(a)(2), the Exchange believes it is appropriate to permit them to occur as routinely and repeatedly as a market participant would like. These transfers will continue to be subject to the prohibition on netting set forth in Options 6, Section 5(b), and thus may not result in the closing of any positions. While the position transfers permitted by Options 6, Section 5 were intended to accommodate non-routine and non-recurring transfers, the Exchange believes permitting routine, recurring position transfers that do not result in a change in ownership or reduction in open interest is consistent with the purpose of not being used to circumvent the normal auction purpose. Additionally, given that these transfers may occur on a regular basis in accordance with a market participants' business needs and procedures, the Exchange believes prior written notice would be onerous and would not serve any purpose given the lack of change in ownership and in open interest. The Exchange believes this will provide market participants with additional flexibility to structure their option position accounts as they believe is appropriate and move their positions between accounts as they deem necessary and appropriate for their business and trading needs, including for risk management purposes.

The proposed rule change also corrects an erroneous cross-reference in Rule Options 6, Section 5(d)(1), as the method for determining the transfer price is in paragraph (c) rather than paragraph (e) of Options 6, Section 5.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] 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)[11] 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 the proposed rule change will 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 because it will provide market participants with a more

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities and Exchange Act Release No. 89389 (July 23, 2020), 85 FR 45709 (July 29, 2020) (SR–Cboe–2020–067) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 6.7 Concerning Off-Floor Transfers).

[6] Options 6, Section 5(a) states, ''*Permissible Transfers.* Existing positions in options listed on the Exchange of a Participant or non-Participant that are to be transferred on, from, or to the books of a Clearing Participant may be transferred off the Exchange if the transfer involves on or more of the following events:.....(2) the transfer of positions from one account to another account where no change in ownership is involved (*i.e.,* accounts of the same Person, provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements;. . .''

[7] For purposes of this rule, the term ''Person'' as an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust, or unincorporated organization, or any governmental entity or agency or political subdivision thereof. *See* Options 6, Section 5(a).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

[11] *Id.*

efficient process to transfer open positions between their own accounts in accordance with their own business and trading needs, including to respond to then-current market conditions. Because these transfers would not result in a change in ownership or a reduction in open interest, the Exchange believes the proposed rule change remains consistent with the purpose of Options 6, Section 5, which was to prohibit use of the transfer procedure in circumvention of the normal auction process, as the normal auction process involves the opening or closing of positions through a transaction among multiple market participants. Market participants may maintain different accounts for a variety of reasons, such as the structure of their businesses, the manner in which they trade, their risk management procedures, and for capital purposes. Given that these transfers may occur on a regular basis in accordance with a market participants' business needs and procedures, the Exchange believes prior written notice would be onerous and would not serve any purpose given the lack of change in ownership and in open interest. Therefore, the proposed rule change will benefit investors by permitting market participants to manage the open positions in their accounts in a manner consistent with their businesses.

The Exchange recognizes the numerous benefits of executing options transactions on an exchange, including price transparency, potential price improvement, and a clearing guarantee. However, the Exchange believes it is appropriate to permit position transfers among accounts of the same individual or legal entity where there is no impact on open interest to occur off the exchange, as these benefits are inapplicable to those transfers. These transfers have a narrow scope and are intended to permit market participants to achieve their own business needs. These transfers are not intended to be a competitive trading tool. There is no need for price discovery or improvement, as the transfer merely moves positions to different accounts for the same Person and does not open or close any positions. These transfers will result in no change in ownership. The transactions that resulted in the open positions to be transferred pursuant to Options 6, Section 5(a)(2) were already guaranteed by a clearing member of The Options Clearing Corporation (''OCC''), and the positions may not be closed pursuant to the transfer and will continue to be subject to OCC rules, as they will continue to be held in an account with an OCC clearing member.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change will apply to all market participants in the same manner. All market participants will be able to effect position transfers pursuant to Options 6, Section 5(a)(2) on a recurring or routine basis without providing the Exchange with notice of such transfers. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it relates solely to the notice required for transfers that may occur today, and the frequency with which those transfers may occur. These transfers will continue to not result in a change in ownership or netting, and thus will have no impact on outstanding option positions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

[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 a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative for 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 to so that it may adopt the proposed position transfer rules as soon as possible which, according to the Exchange, would benefit investors and the general public because it will provide Participants with the ability to request a transfer, for limited, non-recurring types of transfers, without the need for exposing those orders on the Exchange. The proposed rule change does not present any unique or novel regulatory issues and is substantively identical to provisions in Cboe Rule 6.7. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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–BX–2020–020 on the subject line.*

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2020–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2020–020 and should be submitted on or before September 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18350 Filed 8–20–20; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89586; File No. SR–C2–2020–012]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Adopt Fees for a Recently Adopted Data Product Known as Intraday Open-Close Data

August 17, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 3, 2020, Cboe C2 Exchange, Inc. (the "Exchange" or "C2") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 C2 Exchange, Inc. (the "Exchange" or "C2") is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to adopt fees for a recently adopted data product known as Intraday Open-Close Data. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/*), 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 Exchange recently adopted a new data product on C2 to be known as Intraday Open-Close Data, which will be available for purchase to C2 Trading Permit Holders ("TPHS") and non-TPHs.[3] The Exchange now proposes to adopt fees for Intraday Open-Close Data. Cboe LiveVol, LLC ("LiveVol"), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., will make the Intraday Open-Close Data available for purchase to TPHs and non-TPHs on the LiveVol DataShop website (*datashop.cboe.com*).

By way of background, the Exchange historically offered Open-Close Data, which is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Open-Close Data is proprietary C2 trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed.

The Exchange recently adopted a similar product: Intraday Open-Close Data. The Intraday Open-Close Data will provide similar information to that of Open-Close Data but will be produced and updated every 10 minutes during the trading day. Data is captured in "snapshots" taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period. For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current "snapshot" and all previous "snapshots." The Intraday Open-Close Data will provide a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume will be further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Intraday Open-Close Data is also proprietary C2 trade data and does not include trade data from any other exchange. In contrast to the existing Open-Close Data product, the Intraday Open-Close Data will not provide execution price.

The Exchange anticipates a wide variety of market participants to purchase Intraday Open-Close Data, including, but not limited to, individual

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* SR–C2–2020–010.

customers, buy-side investors, and investment banks. The Exchange believes the Intraday Open-Close Data product may also provide helpful trading information regarding investor sentiment that may allow market participants to make better trading decisions throughout the day and may be used to create and test trading models and analytical strategies and provides comprehensive insight into trading on C2. For example, intraday open data may allow a market participant to identify new interest or possible risks throughout the trading day, while intraday closing data may allow a market participant to identify fading interests in a security. The product is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange notes that other exchanges offer a similar data product.[4]

The Exchange proposes to provide in its Fee Schedule that TPHs and non-TPHs may purchase Intraday Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (historical file). The Exchange proposes to assess a monthly fee of $1,000 (or $12,000 per year) for subscribing to the data feed. The Exchange also proposes to assess a fee of $500 per request per month for an ad-hoc request of historical Intraday Open/Close data covering all Exchange-listed securities. An ad-hoc request can be for any number of months beginning with January 2020 for which the data is available.[5] The proposed subscription and ad-hoc fees will apply both to TPHs or non-TPHs. The Exchange notes that other exchanges provide similar data products that may be purchased on both a subscription and ad-hoc basis and are similarly priced.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of 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 remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposal to adopt fees for Intraday Open-Close Data is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(4) of the Act[9] in particular, in that it is an equitable allocation of dues, fees and other charges among its members and other recipients of Exchange data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. Particularly, Intraday Open-Close Data further broadens the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The data product also promotes increased transparency through the dissemination of Intraday Open-Close Data. Particularly, information regarding opening and closing activity across different option series during the trading day may indicate investor sentiment, which may allow market participants to make better informed trading decisions throughout the day. Subscribers to the data may also be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes Intraday Open-Close Data provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading. Moreover, other exchanges offer a similar data product.[10]

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 17% of the market share and currently the Exchange represents only approximately 2.87% of the market share.[11] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[12] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of the recently introduced Intraday Open-Close Data product.

The Exchange believes the proposed fees are reasonable as the proposed fees are both modest and similar to, or even lower than, the fees assessed by other exchanges that provide similar data products.[13] Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. Like the Exchange's Intraday Open-Close Data product, other exchanges offer similar

[4] *See* Securities Exchange Act Release No. 61317 (January 8, 2010), 75 FR 2915 (January 19, 2010) (SR–ISE–2009–103); Securities Exchange Act Release No. 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR–Phlx–2010–121); Securities Exchange Act Release No. 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR–NASDAQ–2011–144); and Securities Exchange Act Release No. 81632 (September 15, 2017), 82 FR 44235 (September 21, 2017) (SR–GEMX–2017–42).

[5] For example, a TPH or non-TPH that requests historical Intraday Open/Close Data for the months of January 2020 and February 2020, would be assessed a total of $1,000. The Exchange notes that it may make historical data prior to January 2020 available in the future and that such historical data would be available to all TPHs or non-TPHs.

[6] *See* Price List—U.S. Derivatives Data for Nasdaq PHLX, LLC (''PHLX''), The Nasdaq Stock Market, LLC (''Nasdaq''), Nasdaq ISE, LLC (''ISE''), and Nasaq GEMX, LLC (''GEMX''), available at *http://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#web.* Particularly, PHLX offers ''Nasdaq PHLX Options Trade Outline (PHOTO)'' and assesses $1,500 per month for an intra-day subscription and $750 per month for historical reports; Nasdaq offers the ''Nasdaq Options Trade Outline (NOTO)'' and assesses $750 per month for an intra-day subscription and $500 per month for historical reports; ISE offers the ''Nasdaq ISE Open/Close Trade Profile'' and assesses $2,000 per month for an intra-day subscription and $1,000 per month for historical reports; and GEMX offers the ''Nasdaq GEMX Open/Close Trade Profile'' and assesses $1,000 per month for an intra-day subscription and $750 per month for historical reports.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(4).

[10] *See* supra note 4.

[11] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (July 31, 2020), available at *https://markets.cboe.com/us/options/market_statistics/.*

[12] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[13] *See* supra note 6.

data products that each provide insight into trading on those markets and may likewise aid in assessing investor sentiment. Although each of these similar Intraday Open-Close data products provide only proprietary trade data and not trade data from other exchanges, it's possible investors are still able to gauge overall investor sentiment across different option series based on open and closing interest on any one exchange.[14] Similarly, market participants may be able to analyze option trade and volume data, and create and test trading models and analytical strategies using only Intraday Open-Close data relating to trading activity on one or more of the other markets that provide similar data products. As such, if a market participant views another exchange's Intraday Open-Close data as more attractive than its proposed Intraday Open-Close data product, then such market participant can merely choose not to purchase the Exchange's Intraday Open-Close Data and instead purchase another exchange's Intraday Open-Close data product, which offer similar data points, albeit based on that other market's trading activity.

The Exchange also believes the proposed fees are reasonable as they would support the introduction of a new market data product that is designed to aid investors by providing insight into trading on C2 Options. The recently adopted Intraday Open-Close Data would provide options market participants with valuable information about opening and closing transactions executed on the Exchange throughout the trading day, similar to other trade data products offered by competing options exchanges. In turn, this data would assist market participants in gauging investor sentiment and trading activity, resulting in potentially better informed trading decisions. As noted above, users may also use such data to create and test trading models and analytical strategies.

Selling market data, such as Intraday Open-Close Data, is also a means by which exchanges compete to attract business. To the extent that the Exchange is successful in attracting subscribers for the Intraday Open-Close Data, it may earn trading revenues and further enhance the value of its data products. If the market deems the proposed fees to be unfair or inequitable, firms can diminish or discontinue their use of the data and/or avail themselves of similar products offered by other exchanges.[15] The Exchange therefore believes that the proposed fees for Intraday Open-Close Data reflect the competitive environment and would be properly assessed on TPH or non-TPH users. The Exchange also believes the proposed fees are equitable and not unfairly discriminatory as the fees would apply equally to all users who choose to purchase such data. The Exchange's proposed fees would not differentiate between subscribers that purchase Intraday Open-Close Data and are set at a modest level that would allow any interested TPH or non-TPH to purchase such data based on their business needs.

As noted above, the Exchange anticipates a wide variety of market participants to purchase Intraday Open-Close Data, including but not limited to individual customers, buy-side investors and investment banks. The Exchange reiterates that the decision as to whether or not to purchase the Intraday Open-Close Data is entirely optional for all potential subscribers. Indeed, no market participant is required to purchase the Intraday Open-Close Data, and the Exchange is not required to make the Intraday Open-Close Data available to all investors. Rather, the Exchange is voluntarily making Intraday Open-Close Data available, as requested by customers, and market participants may choose to receive (and pay for) this data based on their own business needs. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

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. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to sell a data product similar to those offered by other competitor options exchanges.[16] The Exchange made Open-Close Data available in order to keep pace with changes in the industry and evolving customer needs, and believes the data product will contribute to robust competition among national securities exchanges. At least four other U.S. options exchanges offer a market data product that is substantially similar to the Intraday Open-Close Data. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price Intraday Open-Close Data is constrained by competition among exchanges that offer similar data products to their customers. As discussed, there are currently a number of similar products available to market participants and investors. At least four other U.S. options exchanges offer a market data product that is substantially similar to the Intraday Open-Close Data, which the Exchange must consider in its pricing discipline in order to compete for the market data.[17] For example, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as discussed, market participants are under no obligation to utilize. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange also does not believe the proposed fees would cause any unnecessary or in appropriate burden on intermarket competition as other exchanges are free to introduce their own comparable data product and lower their prices to better compete with the Exchange's offering. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed product and fees apply uniformly to any purchaser, in that it does not differentiate between subscribers that purchase Intraday Open-Close Data. The proposed fees are set at a modest level that would allow any interested TPH or non-TPH to purchase such data based on their business needs.

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 written comments on the proposed rule change.

[14] The exchange notes that its Intraday Open-Close data product does not include data on any exclusive, singly-listed option series.

[15] *See* supra note 6.

[16] *Id.*

[17] *See e.g.,* Cboe Options Fees Schedule, Livevol Fees, Open-Close Data. *See also* Nasdaq ISE Options 7 Pricing Schedule, Section 10.A and Nasdaq PHLX Options 7 Pricing Schedule, Section 10, PHLX Options Trade Outline (''PHOTO'').

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[18] and paragraph (f) of Rule 19b–4[19] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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 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–C2–2020–012 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–C2–2020–012. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2020–012 and should be submitted on or before September 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f).

[20] 17 CFR 200.30–3(a)(12).

[FR Doc. 2020–18354 Filed 8–20–20; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Waiver of Aeronautical Land Use Assurance: Jim Kelly Field Airport (LXN), Lexington, Nebraska

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

ACTION: Notice of Intent of Waiver with respect to land use change from aeronautical to non-aeronautical.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal from the Lexington Airport Authority (sponsor), Lexington, NE, to release a 6.92 acres parcel of land from the federal obligation dedicating it to aeronautical use and to authorize this parcel to be used for revenue-producing, non-aeronautical purposes.

DATES: Comments must be received on or before September 21, 2020.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE–620G, 901 Locust, Room 364, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: Nathan Masten, Manager, Jim Kelly Field Airport, 1501 North Airport Road, Lexington, Nebraska 68850.

FOR FURTHER INFORMATION CONTACT: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE–620G, 901 Locust, Room 364, Kansas City, MO 64106, (816) 329–2603, *amy.walter@faa.gov.*

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to change one tract of land consisting of 6.92 acres of airport property at the Jim Kelly Field Airport (LXN) from aeronautical use to non-aeronautical use to produce income for the airport. The parcel of land is located along North Airport Road. This parcel will be leased for the construction and operation of a solar photovoltaic electricity generating facility.

No airport landside or airside facilities are presently located on this parcel, nor are airport developments contemplated in the future. There is no current use of the surface of the parcel. The parcel will serve as a revenue producing lot with the proposed change from aeronautical to non-aeronautical. The request submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the change to non-aeronautical status of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this Notice.

The following is a brief overview of the request:

The Jim Kelly Field Airport (LXN) is proposing the land use release of airport property containing 6.92 acres, more or less from aeronautical to non-aeronautical. The land use release is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The rental of the subject property will result in the land at the Jim Kelly Field Airport (LXN) being changed from aeronautical to non-aeronautical use and release the lands from the conditions of the Airport Improvement Program Grant Agreement Grant Assurances. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market rental value for the property. The annual income from lease payments will generate a long-term, revenue-producing stream that will further the Sponsor's obligation under FAA Grant Assurance number 24, to make the Jim Kelly Field Airport as financially self-sufficient as

possible. The following is the legal description of the subject airport property at the Jim Kelly Field Airport (LXN):

A parcel of land in a portion of that part of Lot 1, Kelley Field Addition to the City of Lexington, Dawson County, Nebraska, lying within the Northeast Quarter of the Southeast Quarter (NE1/4–SE1/4) of Section 36, T10N, R22W, 6th P.M., more particularly described as follows: Commencing at the southeast corner of said Section 36, said corner being marked by a rebar with cap stamped LS 520 and from which a rebar with aluminum cap stamped LS 810 bears N89°23′25″ W a distance of 33.00 feet, thence N00°39′06″ W along the east line of said Section 36 a distance of 1411.89 feet to a point from which the east quarter corner of Section 36 bears N00°39′06″ W a distance of 1209.31 feet, said corner being marked by a 1'' Iron Pipe, and together with said southeast corner of Section 36 will reflect the Basis of Bearings which is Geodetic North as determined by GPS observation; thence N90°00′00″ W a distance of 53.76 feet to the Point of Beginning of said parcel to be described; thence N90°00′00″ W a distance of 735.92 feet; thence N00°00′00″ E a distance of 409.61 feet; thence N90°00′00″ E a distance of 735.92 feet; thence S00°00′00″ E a distance of 409.61 feet to the Point of Beginning and there terminating. Said parcel of land encompasses 6.92 Acres.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon appointment and request, inspect the application, notice and other documents determined by the FAA to be related to the application in person at the Jim Kelly Field Airport.

Issued in Kansas City, MO on August 17, 2020.

James A. Johnson,

Director, FAA Central Region, Airports Division.

[FR Doc. 2020–18365 Filed 8–20–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Request To Release Airport Property

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

ACTION: Notice of intent to rule on request to release airport property for land disposal at the Liberal Mid-America Regional Airport (LBL), Liberal, Kansas.

SUMMARY: The FAA proposes to rule and invites public comment on the release and sale of two parcels of land at the Liberal Mid-America Regional Airport (LBL), Liberal, Kansas.

DATES: Comments must be received on or before September 21, 2020.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE–620G, 901 Locust Room 364, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: Lynn Koehn, The Koehn Law Firm, L.L.C., 217 N. Washington, Liberal, KS 67901, (620) 624–8158.

FOR FURTHER INFORMATION CONTACT: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE–620G 901 Locust Room 364, Kansas City, MO 64106, (816) 329–2603, *amy.walter@faa.gov*.

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release approximately 2.07 acres of airport property at the Liberal Mid-America Regional Airport (LBL) under the provisions of 49 U.S.C. 47107(h)(2). On August 11, 2020, the Airport Attorney requested from the FAA that two parcels of land for a combined 2.07 acres of property be released for sale to the USD 480 School District. The FAA determined the request to release and sell property at Liberal Mid-America Regional Airport (LBL) submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the release and sale of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this Notice.

The following is a brief overview of the request:

Liberal Mid-America Regional Airport (LBL) is proposing the release and sale of two parcels of airport property, totaling 2.07 acres. The release of land is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The sale of the subject property will result in the release of land and surface rights at the Liberal Mid-America Regional Airport (LBL) from the conditions of the AIP Grant Agreement Grant Assurances, but retaining the mineral rights. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value and the property will continue to be used as a parking lot and storage building for the school district.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, request an appointment and inspect the application, notice and other documents determined by the FAA to be related to the application in person at the Liberal Mid-America Regional Airport.

Issued in Kansas City, MO, on August 17, 2020.

James A. Johnson,

Director, FAA Central Region, Airports Division.

[FR Doc. 2020–18364 Filed 8–20–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

MilSpec Products, Inc. Supplemental Type Certificates SA03105AT, SA03108AT, SA03109AT, SA03066AT, SA03084AT, SA03110AT.

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

ACTION: Notice of surrendered supplemental type certificates.

SUMMARY: This notice announces that MilSpec Products, Inc. has surrendered to the FAA supplement type certificates SA03105AT, SA03108AT, SA03109AT, SA03066AT, SA03084AT, and SA03110AT. This action is intended to inform all aircraft owners who may possess a product affected by these surrendered certificates.

FOR FURTHER INFORMATION CONTACT: Send correspondence on this issue to: Federal Aviation Administration, Atlanta Aircraft Certification Branch, 1701 Columbia Avenue, College Park, GA 30337. ATTN: Eric Potter. You may also contact Eric Potter by phone at (404) 474–5553, or electronically at *Eric.Potter@faa.gov*.

SUPPLEMENTARY INFORMATION: This notice informs the public that on February 12, 2020, the FAA accepted for surrender several supplemental type certificates (STC) held by MilSpec Products, Inc. By letter received October 25, 2019, MilSpec Products, Inc. notified the FAA that it is voluntarily surrendering the following STCs:

STC #	Description of type design change	Products
SA03105AT	Manufacture of engine cowling fasteners.	Cessna (type certificate now held by Textron Aviation Inc.) Models 150, 150A, 150B, 150C, 150D, 150E, 150F, 150G, 150H, 150J, 150K, 150L, and 150M airplanes.
SA03108AT	Manufacture of engine cowling fasteners.	Cessna (type certificate now held by Textron Aviation Inc.) Model 177 airplanes.
SA03109AT	Manufacture of engine cowling fasteners.	Cessna (type certificate now held by Textron Aviation Inc.) Models 180, 180A, 180B, and 180C airplanes.
SA03066AT	Manufacture of engine cowling fasteners.	Beech (type certificate now held by Textron Aviation Inc.) Models 35–33, 35–A33, 35–B33, 35–C33, 35–C33A, E33, E33A, E33C, F33, F33A, F33C, G33, H35, G36, J35, K35, M35, N35, P35, S35, V35, V35A, V35B, 36, A36, A36TC, and B36TC airplanes.
SA03084AT	Manufacture of engine cowling fasteners.	Cessna (type certificate now held by Textron Aviation Inc.) Models 172, 172A, 172B, 172C, 172D, 172E, 172F (USAF T–41A), 172G, 172H (USAF T–41A), 172I, 172K, 172L, 172M, 172N, 172P, 172Q, 172R, 172S, 175, 175A, 175B, 175C, P172D, R172E (USAF T–41B) and (USAF T–41C or D), R172F (USAF T–41D), R172G (USAF T–41C or D), R172H (USAF T–41D), R172J, R172K, and 172RG airplanes.
SA03110AT	Manufacture of engine cowling fasteners.	Cessna (type certificate now held by Textron Aviation Inc.) Models 182, 182A, 182B, 182C, 182D, 182E, 182F, 182G, 182H, 182J, 182K, 182L, 182M, 182N, 182P, 182Q, 182R, R182, T182, TR182, 182S, T182T, and 182T airplanes.

Surrender of an STC is a final action. These STCs cannot be reissued to MilSpec Products, Inc. or any third party. Completion of the surrender process terminates all of the design approval holder's privileges and responsibilities associated with these STCs. However, the surrender of these STCs does not affect the airworthiness certificates of existing airplanes with these STCs installed.

Authority: 49 U.S.C. 106(g), 44701–44702, 44704.

Issued in Kansas City, MO on August 17, 2020.

Pat Mullen,

Manager, Small Airplane Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2020–18324 Filed 8–20–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

[Docket No. FHWA–2020–0007]

Federal Highway Administration

Tribal Technical Assistance Program

AGENCY: Federal Highway Administration (FHWA), Department of Transportation.

ACTION: Notice; request for comments.

SUMMARY: This notice requests comments on the future delivery models proposed for the Tribal Technical Assistance Program (TTAP).

DATES: Comments must be received on or before September 21, 2020.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.
- *Instructions:* You must include the agency name and docket number at the beginning of your comments. All comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: For questions about the TTAP, contact Victoria Peters, FHWA Center for Local Aid Support, (720) 963–3522, or by email at *Victoria.Peters@dot.gov*. For legal questions, please contact Vivian Philbin, FHWA Office of the Chief Counsel, (720) 963–3445, or by email at *Vivian.Philbin@dot.gov*. Business hours for FHWA are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may retrieve a copy of the notice through the Federal eRulemaking portal at: *http://www.regulations.gov*. The website is available 24 hours a day. Electronic submission and retrieval help and guidelines are available under the help section of the website. An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: *http://www.archives.gov/federal_register* and the Government Publishing Office's web page at: *http://www.gpoaccess.gov*.

Background

The legislative authority to deliver TTAP is contained in 23 U.S.C. 504(b). The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services described in 23 U.S.C. 504(b).

TTAP was added to the Local Technical Assistance Program in 1991, with the primary objective of building transportation professional capacity within the federally recognized Tribes to support the management of their transportation assets. The program started with four centers and expanded to seven centers by 1996. In 2018, in order to focus more program resources on core training and technical assistance, the program piloted a national delivery model for 2 years; this pilot concluded in December 2019.

Throughout the 2-year pilot, FHWA received feedback from the Tribes on the model and its performance. In response, FHWA held four consultation sessions in the summer of 2019 to solicit more direct feedback on the national model. Tribes provided feedback that they wanted more input in the development of future TTAP objectives and program delivery.

In acknowledgement of the feedback received and to accommodate more direct and more extensive Tribal involvement, FHWA conducted 13 additional consultation sessions, including at least one in each of the 12 Bureau of Indian Affairs (BIA) regions during late 2019 and early 2020. These facilitated consultation sessions focused on two questions: (1) Within the framework of the enabling legislation, what objectives did the Tribes want to see the TTAP accomplish; and (2) What is the best delivery model to achieve those objectives?

This notice summarizes the feedback received from the 13 consultation sessions and proposes 2 delivery models for the advancement of TTAP. FHWA is interested in receiving further input on the proposed models.

While the face-to-face training of TTAP is currently suspended as potential delivery models for TTAP are being assessed, online training and technical assistance are still available during the temporary suspension of face-to-face trainings.

Summary of the National Pilot

In 2018–2019, FHWA piloted a national delivery model for TTAP to assess whether reshaping the program could feasibly increase the amount of transportation training and associated technical assistance available to Tribal transportation professionals and provide data to serve as a baseline against which future improvements could be measured. Administered from a central location with the virtual delivery of face-to-face training, the pilot tested a means to provide broader national coverage. The goal was to deliver training in core transportation focus areas, centralize subject matter expertise, ensure consistency in training delivery, share best practices and innovation, enable technical assistance from subject matter experts (SMEs), test a Road Scholars certification program, and create program awareness with the Tribal transportation workforce. The pilot was funded at the same level as previous TTAP efforts. A brief summary of the pilot follows:

- Centralizing the administrative functions (*e.g.,* developing training material; coordinating and scheduling training sessions and technical assistance; sharing best practices/innovation via a newsletter; and hosting a website that provided information on annual training schedules and locations, available resources, toolkits, fact sheets and regulatory links) in one center substantially reduced overhead, reduced redundancy, and increased the resources available for training and technical assistance.
- Over 60 core curriculum courses were developed in 5 core transportation areas and were offered in the following formats: online self-paced, online 4-week instructor-led, and face-to-face. The pilot also included a special emphasis area of motor vehicle injury prevention.
- The pilot provided in-depth training on topics and skills with the face-to-face training classes that were 3.5 hours or longer. These courses were offered primarily to Tribes, but others could attend on a space-available basis. During the pilot, these sessions averaged participation of 78 percent Tribal and 22 percent non-Tribal; this was comparable to the previous 5 years of the TTAP, which had average participation of 70 percent Tribal and 30 percent non-Tribal attendees.
- The face-to-face class sizes during the pilot ranged from 2 to 26 participants for an average of 5 registrations per class. Comparing the average number of face-to-face training session participants, the 5-year average of the former centers was almost double that of the pilot. However, the pilot metric does not include attendees participating in national and regional conference face-to-face training sessions as was previously included; it only includes attendees at the 3.5-hour training classes.
- The training was delivered by 10 SMEs in safety, planning & procurement, project delivery, maintenance & operations, and asset & data management. The SMEs were located across the country and worked remotely. All training was geographically dispersed across the country to provide equitable access to the full range of training opportunities for all the Tribes.
- The pilot delivered 4,754 hours of face-to-face training over a 21-month period. Converted to an annual number, this represents a 60 percent increase over the 5-year annual average for face-to-face training hours delivered in the previous 5 years of the TTAP. An additional 1,364 contact hours were earned by Tribal participants from the online learning delivered under the pilot.
- Upon request, the TTAP SMEs provided customized technical assistance to help build the technical knowledge and capabilities of Tribal workforces. Serving as technical mentors, SMEs provided guidance and resources beyond the classroom. Over the course of the pilot, the SMEs provided an average of 36 technical assistance hours per month to the Tribal workforce.
- The pilot included a Road Scholar Certification Program that offered the opportunity to become certified in several roadway and heavy equipment operation topics. The certification center was located in Oklahoma City, Oklahoma. Blending both online and in-person testing, all applicants were emailed a study packet to facilitate passing the online pre-examination before proceeding with the practical examination process (hands-on for several topics). Many applicants did not proceed after receiving the initial study packet. Nine applicants pretested in multiple topics, and two moved into the practical examination phase. To address concerns expressed regarding the difficulty of the certification exams, the program was also tested with 15 local public agency employees from the Oklahoma City area, ranging in skill level from newly employed with little to no experience to seasoned maintenance workers. The more experienced local workers advanced to practical testing.
- Centralizing the administrative function of the program lost the regional interface between the Tribes and TTAP. An important component of the TTAP's efficacy is the relationship between the TTAP staff and the Tribes. While centralizing the administrative function of the program reduced the cost of maintaining multiple physical centers and administrative staff, the program lost the existing interface between the Tribes and the TTAP. A centralized program resolved limitations with respect to subject matter expertise as well as the scope and amount of training provided under the prior TTAP model. However, the TTAP will need to reestablish the connection between the TTAP staff and Tribes. Moving forward, a regional connection needs to be reestablished.
- The understanding and provision of culturally relevant information between the SMEs and the Tribes was an issue throughout the pilot. The SMEs were hired for their experience in particular specialties and the application of these specialties in different transportation programs and localities. However, the SMEs' understanding of the Tribal program was limited and some initially lacked the information and skills necessary to translate their recognition into their face to face interaction. As they integrated class discussions of regional and Tribal issues into the standardized curriculum, their understanding of the Tribal program and its issues continued to evolve. To improve engagement, SMEs will need to be conversant in, and pay close attention to, the delivery characteristics of the Tribal program.

Discussion of Consultation Outcomes

During late 2019 and early 2020, FHWA conducted 13 consultation sessions, including at least one in each of the 12 BIA regions. These facilitated consultation sessions focused on two questions: (1) Within the framework of the enabling legislation, what objectives did the Tribes want to see the program accomplish; and (2) What is the best delivery model to achieve those objectives? Each consultation session generated a list of prioritized objectives. During the consultations, program

objectives were initially identified by individual consultation participants and then collectively discussed and consolidated. This section discusses the objectives and delivery models that arose from consultation discussions.

Objectives

Below are the objectives of TTAP listed in the order most frequently heard at the consultation sessions:

- Technical Assistance—Provide technical assistance relevant to the training curriculum and Tribal needs.
- Innovation—Bring new innovations in technology and practice to the attention of the Tribes and incorporate applicable innovation in the training and technical assistance.
- Core Training Curriculum—Deliver skills-based training on core competencies for transportation program requirements. To the extent possible, provide supporting technical manuals and guidance documents for key courses.
- Workforce Development—Facilitate or enable professional training that leads to certification for transportation construction-related trades, including heavy equipment operation.
- In-person Training Locations—To the maximum extent possible, deliver in-person training at locations that are readily accessible to the maximum number of Tribes.
- Instructor knowledge of Tribes and Tribal issues—Provide trainers and technical advisors who have demonstrable Tribal experience.
- Tiered Training—Provide multi-tiered training (*e.g.,* basic, intermediate, advanced) for selected courses.
- Establish and Leverage Relationships—Leverage relationships with transportation partners and direct Tribes to information, data, resources, and expertise that are not provided as part of TTAP.
- Regional Specificity—Provide training that is relevant to Tribal needs in terms of regional climate, geology, and local experience.
- Tribal Input into Courses and Training Calendar—Incorporate Tribal input into what training is delivered and where and when it is delivered. This includes Tribal input on what training is developed.
- Multiple Course Delivery Options—Deliver curriculum through multiple methods (*e.g.,* face-to-face, online, peer-to-peer exchanges, electronic media).
- Program Communication—Ensure that TTAP communicates appropriately and effectively with all Tribes about program activities, understands Tribal needs, and shares what TTAP can provide.
- Relationship Building—Provide a designated TTAP point-of-contact (POC) as a first resource for outreach and to address issues of interest to Tribes within the regions.
- Instructor Competency—Provide instructors who are SMEs.
- Funding Resources—Provide information and links to available funding resources.

Other topics discussed at the consultations include developing a knowledge portal, creating job competencies, sharing information on road maintenance programs, addressing multi-jurisdictional issues, and teaching job-specific duties.

Delivery Models

Each consultation session identified several potential delivery models. During the consultation sessions, for brainstorming purposes only, no financial constraints were placed on the proposed delivery models. Instead, those involved in the brainstorming were asked to consider scalability in the models they proposed. The delivery models were not fully formulated, but the key elements that sought to address the prioritized objectives were identified.

The outcomes of the 13 consultation sessions were discussed with the Tribal Transportation Program Coordinating Committee (TTPCC) during its February 2020 meeting in Albuquerque, New Mexico. During this discussion, commonalities and themes were explored with the TTPCC. This led to a grouping of the objectives and a review of the potential delivery models' abilities to deliver the maximum number of these objectives.

Delivery Models Not Advanced

The following models were analyzed for feasibility and effectiveness in meeting legislative intent and Tribal objectives. These models were deemed less effective in meeting these criteria.

1. Physical Office/Center in Each Region—A physical office incurs costs for rent, services, equipment, and a structure of administrative positions in each office. These overhead expenses are an annual obligation out of program resources, diminishing the resources available to deliver the core training and education mission.

2. Direct Funding—This model would allocate TTAP funding directly to the Tribes, shifting the responsibility of training and education to each Tribe. It would use the established Tribal Transportation Program (TTP) distribution formula, resulting in 456 Tribes receiving less than $2,000 annually to meet their transportation training and education needs. Each Tribe would need to provide FHWA with a document that ensured the funds were being used for the intended purpose prior to receiving the allocation. The administrative burden of this model renders it ineffective. In addition, 80 percent of the Tribes would receive very limited funding to meet their training and technical assistance needs.

3. Intertribal/Train-the-Trainer—This model sought to establish the training capacity within the Tribal community itself. This model's effectiveness is challenged by the Tribes' capacity to supply trainers (*e.g.,* time available to be away from their position/Tribe to provide training), the need to develop and maintain the trainers' instructional techniques and capacity (this would be ongoing as individuals entered and left this function), ensure subject matter expertise, and maintain training and technical assistance consistency and currency across a broad spectrum of trainers. However, exploring how to integrate the concept of a train-the-trainer element into TTAP can be explored as TTAP is deployed.

4. National Delivery Only—The national model does not include a regional presence to establish and maintain relationships with the Tribes in a region. The significance of this presence to communicate with and understand regional Tribal needs and priorities was clearly expressed during the consultations and can improve the receptivity for training and education opportunities. However, there are programmatic elements (*e.g.,* online course delivery, core training development, internet website that includes resource information) that are more effectively managed and administered at the national level.

5. Community College-Driven Program—This model sought to leverage the 32 fully accredited Tribal Colleges and Universities across the U.S. to deliver the TTAP. Most of these academic institutions are 2-year schools, and 11 provide pathways to engineering and material sciences. Working with a number of these institutions to effectively integrate TTAP courses and training material into their programs would be time-intensive and would not meet the immediate or near-term needs of Tribal transportation. However, exploring potential partnerships at the national and regional levels with these colleges and universities that could share faculty, curricula, equipment, and/or instructional supplies could be conducted as part of the leveraging partnerships objective that is part of each of the advanced delivery models.

6. Heavy Equipment Workforce Development—An objective that was noted in many of the consultation sessions was the establishment of heavy equipment training capacity within TTAP. During the consultations, this was defined as the training necessary to become proficient in heavy equipment operation; this is not a 2-hour or half-day familiarization event with equipment that may be onsite. To become proficient in heavy equipment operation, the average accredited ''in-the-seat'' training program ranges from 4 to 8 weeks to develop skills for multiple pieces of equipment used in highway maintenance and construction. These programs are designed to provide the fundamental skills and knowledge needed to operate heavy equipment safely and proficiently. Given the current funding level for TTAP, providing scholarships to attend credentialed programs is not feasible without forgoing a significant portion of the proposed training and technical assistance, which is a large component of the statutory mandate. However, given the interest expressed in this training, FHWA will explore potential partnership arrangements and access opportunities with programs administered by other Federal agencies or Departments to determine options for how TTAP could expand into this area.

The Objectives and the Delivery Models Advanced

A matrix table comparing the objectives to considered models is available as an attachment within this docket notice and on the FHWA Center for Local Aid Support website.[1]

The following information is necessary to understanding the delivery models.

1. Regional Area—In evaluating the regional area in the delivery models presented below, careful consideration was given to the size and determination of regional areas that are feasible under currently available funding for the TTAP ($1.05 million per year) and that provides equitable training opportunities to all the Tribes within those regions. To achieve these two elements, FHWA utilized the statutory formula used to determine the distribution of TTP funding.[2] The use of this formula is an established methodology and incorporates multiple parameters (*e.g.,* Tribal population, road mileage, and average Tribal shares) into the allocation of resources.

2. Key Roles and Responsibilities—the details of the following responsibilities would be operationalized in a contract with FHWA.

The regional POC will receive regional technical assistance requests and forward to appropriate individuals and agencies for resolution; coordinate Tribal input through an annual needs assessment and work with the FHWA to implement; communicate and market the conduct of the face-to-face and on-line training delivery; identify and secure in-person training workshop locations and ensure that they are compatible with Tribal customs and calendars; collect Tribal issues and challenges prior to course delivery to support instructor inclusion in training delivery; establish and leverage local and regional relationships to ensure that Tribal needs are addressed; build relationships with the Tribes in the region; develop and maintain a regional mailing list; and develop and publish a newsletter.

The SMEs will respond to technical assistance requests received from regional POCs; utilize information collected by the regional POCs to understand and incorporate regional issues and challenges into the delivery of training and technical assistance; deliver face-to-face training in their expertise area; identify and share best practices and Tribal case studies with regional POCs and the FHWA for distribution to Tribes; and establish and leverage local and regional relationships to ensure Tribal needs are addressed.

The FHWA will develop and promulgate information on TTAP and disseminate in concert with the regional POC; develop and make available the core training curriculum; identify and disseminate information on innovative technologies and practices; support and enable the conduct of the online course delivery options; establish and leverage national level relationships to ensure Tribal needs are addressed (this could include potential relationships or partnerships to advance workforce development); develop and maintain a TTAP website for sharing program information, resources, best practices, etc.; develop and share the competencies relevant to job functions; and identify the training that supports and enables those job functions and make them available to the Tribes (resource development, tools, manuals, etc.).

Common Elements of the Delivery Models

All delivery models will utilize the current core curriculum material. To achieve regional specificity within the curriculum, Tribes in the regions will be solicited for the challenges or issues they face due to geography, climate, or local regulations so that those elements may be included. The SMEs will supplement the core training modules to integrate the regional elements.

An annual training needs assessment will inform the curriculum that will be budgeted, designed, and delivered and the locations/venues for delivery.

All models deliver training in a 3-day training workshop format. Unlike a conference, the workshops will be a focused educational setting designed to enhance the skills of participants. No plenary session or presentations will be delivered. When appropriate, and if the venue affords the capacity and opportunity, hands-on practice of new skills will be incorporated into the sessions.

An annual national conference will be provided to address programmatic and mutual topics of national interest.

A regional POC or SME will be selected whose responsibility will include building relationships with, and disseminating information to, the Tribes in their assigned region. To the extent possible, SMEs in the regions would each have different expertise in order to expand and diversify the training bandwidth of TTAP. Individuals with instructional knowledge/competency and an understanding of a Tribal environment will be actively solicited to fill these positions.

The FHWA will continue to leverage partnerships at the national and regional levels to broaden the resources available to Tribes. The regional POC or SME would leverage local and regional partnerships.

A national TTAP website will be developed. The website or ''online resource center'' will provide a variety of materials, tools and resources relevant to the Tribal program.

Mailing lists will be updated and maintained at the regional level.

The FHWA will continue to provide TTAP updates at conferences and manage programmatic discussions with Tribes.

To continue employing a blended learning strategy, existing online curriculum developed by FHWA or one of its partners will remain available for Tribal use.

All models operate within the currently available funding level of $1.05 million per year. During the

[1] The Models and Objectives matrix table is available at *https://www.fhwa.dot.gov/clas/ttap/default.aspx.*

[2] The Section 6002 of the FAST Act continued this formula without modification. 23 U.S.C. 202(b).

national pilot and the previous TTAP delivery model, the annual funding available for TTAP was approximately $2 million per year and included funding from the TTP. Due to funding priorities within the TTP, the program no longer supports the TTAP. In addition, resource limitations preclude providing a multi-level (basic, intermediate, advanced) curriculum.

Delivery Models Advanced

The two delivery models described below combine the maximum number of objectives from the consultation sessions within the annual available funding for the TTAP—$1.05 million per year. Both models have the potential for scalability and expansion. Any expansion would be incremental to ensure program fidelity is maintained. Opportunities identified during the consultation sessions—developing multi-tiered training, leveraging Tribal community colleges' assets for both credit and non-credit training, and providing individual scholarships to obtain highway craft skills through accredited organizations or those identified in future needs assessments—may be pursued subject to additional funding and legislative intent.

Three TTAP Regions with POCs & Part-time SME Support. Under this model, the FHWA would solicit offers for a POC for each region and subject matter expertise to support instructional training delivery and technical assistance. This model offers a minimum of 19 hours of technical assistance delivered by a SME in each region per month. The POC would coordinate the technical assistance requests and contact the appropriate SME or agency for resolution. The model budgets for 11 overnight trips each year for technical assistance calls or networking in the region. Each region would receive 3 training workshops per year in a multi-track format, providing an annual availability of 567 training hours (189 face-to-face hours in each of the 3 TTAP regions). The POC would solicit Tribes in the regions prior to the workshops to identify challenges and issues to be integrated into the training topics. The SME would incorporate discussion of these issues and challenges at the training workshops. At current funding levels, this model provides for the development of two additional training topics each year. Topics selected for development would be an outcome of the annual needs assessment and innovation topics ready for deployment. An electronic newsletter would be developed by the POC and published for each region.

BIA Regional Training Workshops & SME Assigned Four BIA Regions. Under this model, each SME would take on the functions of both POC and SME for the region. Each of the three SMEs would be responsible for four BIA regions. The technical assistance hours would be delivered in the time available to the SME. Each SME would have the ability to travel overnight 3 times to each BIA region for technical assistance and networking (a total of 12 overnight trips per year). The training hours and locations would be expanded from 9 workshops nationally under the above model to 24 workshops annually. Each BIA region would receive two 3-day, multi-track workshops for an availability of 1512 hours (126 face-to-face hours in each of the 12 BIA regions). As with the model above, SMEs would supplement the core training with regional specificity. At current funding levels, this model provides for the development of one additional training topic each year. The topic selected for development would be an outcome of the annual needs assessment and innovation topics ready for deployment. An electronic newsletter would be developed by the SME and published for the four BIA regions that are the SME's responsibility.

Request for Comment

The FHWA is asking the public and specifically Tribal leaders or their direct designees for comments on the following questions:

1. Of the two proposed delivery models being advanced, which do you support and why?

2. Are there aspects of either of the two proposed delivery models being advanced that you think should be adjusted? Which aspects? How and why should they be adjusted?

3. If you do not support either of the two models, please explain your rationale and provide any alternatives you believe would meet the TTAP's legislative intent and maximize the Tribal objectives from the consultations.

Authority: 23 U.S.C. 504(b).

Nicole R. Nason,

Administrator, Federal Highway Administration.

[FR Doc. 2020–18429 Filed 8–20–20; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2020–0067]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on August 3, 2020, Steam into History (SIHX) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 215. FRA assigned the petition Docket Number FRA–2020–0067.

Specifically, SIHX requests special approval pursuant to 49 CFR 215.203, *Restricted cars,* for coach SIHX 820, which will be operated and maintained by Steam into History on the Northern Central Railway between New Freedom, Pennsylvania, and Hyde, Pennsylvania. SIHX 820 is a flat car converted for use in passenger service and will hold a maximum of 62 persons, not exceeding a maximum of 10 tons.

SIHX also requests relief from 49 CFR 215.303, *Stenciling of restricted cars,* as the car will be used exclusively in captive passenger service and will not be interchanged. SIHX also attempts to keep its equipment historically accurate.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m.,

Monday through Friday, except Federal Holidays.

Communications received by October 5, 2020 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2020–18314 Filed 8–20–20; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2020–0065]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on August 3, 2020, BNSF Railway Company (BNSF) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 218, Railroad Operating Practices. FRA assigned the petition Docket Number FRA–2020–0065.

Specifically, BNSF requests relief from certain blue signal protection requirements, 49 CFR 218.25, *Workers on a Main Track,* for workers engaged in fueling, performing locomotive daily inspections, and other routine operations on head-end locomotives at fuel pads situated on main lines. BNSF explains that blue signal protection would still be required at the rear end of a train if performing fueling, locomotive daily inspections, and work on locomotives in the distributed power remote consist.

BNSF states that adequate safety will be maintained by placing a blue signal at the head end of the consist in a location readily visible to the locomotive engineer or whomever may be occupying the controlling locomotive. Protection at the rear end of the train will be supplied by railroad signals, which BNSF states will be sufficient, as there will be no railroad employees performing any inspections on the rolling equipment beyond the lead locomotive consist to the rear of the train.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by October 5, 2020 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2020–18313 Filed 8–20–20; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2020–0009]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and their expected burdens.

DATES: Comments must be submitted on or before September 21, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ‘‘Currently under 30-day Review—Open for Public Comments’’ or by using the search function.

Comments are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Tia Swain, Office of Administration, Management Planning Division, 1200 New Jersey Avenue SE, Mail Stop TAD–

10, Washington, DC 20590 (202) 366–0354 or *tia.swain@dot.gov.*

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On October 18, 2019, FTA published a 60-day notice (84 FR 56012) in the **Federal Register** soliciting comments on the ICR that the agency was seeking OMB approval. FTA received no comments after issuing this 60-day notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The requirements are being submitted for clearance by OMB as required by the PRA.

Title: Metropolitan and Statewide and Non-Metropolitan Transportation Planning.

OMB Control Number: 2132–0529.

Type of Request: Renewal of a previously approved information collection.

Abstract: The FTA and Federal Highway Administration (FHWA) jointly carry out the federal mandate to improve urban and rural transportation. 49 U.S.C. 5303 and 5304 and 23 U.S.C. 134 and 135 authorize the use of federal funds to assist Metropolitan Planning Organizations (MPOs), States, and local public bodies in developing transportation plans and programs to serve the transportation needs of urbanized areas over 50,000 in population and other areas of States outside of urbanized areas. The information collection activities involved in developing the Unified Planning Work Program (UPWP), the Metropolitan Transportation Plan, the Long-Range Statewide Transportation Plan, the Transportation Improvement Program (TIP), and the Statewide Transportation Improvement Program (STIP) are necessary to identify and evaluate the transportation issues and needs in each urbanized area and throughout every State. These products of the transportation planning process are essential elements in the reasonable planning and programming of federally funded transportation investments.

In addition to serving as a management tool for MPOs, the UPWP is used by both FTA and FHWA to monitor the transportation planning activities of MPOs. It also is needed to establish national out year budgets and regional program plans, develop policy on using funds, monitor State and local compliance with technical emphasis areas, respond to Congressional inquiries, prepare Congressional testimony, and ensure efficiency in the use and expenditure of Federal funds by determining that planning proposals are both reasonable and cost-effective.

49 U.S.C. 5303 and 23 U.S.C.134 (j) require the development of TIPs for urbanized areas; STIPs are mandated by 49 U.S.C. 5304 and 23 U.S.C. 135(g) for an entire State. After approval by the Governor and MPO, metropolitan TIPs in attainment areas are to be incorporated directly into the STIP. For nonattainment areas, FTA/FHWA must make a conformity finding on the TIPs before including them in the STIP. The complete STIP is then jointly reviewed and approved or disapproved by FTA and FHWA. These conformity findings and approval actions constitute the determination that States are complying with the requirements of 23 U.S.C. 134 and 135 and 49 U.S.C. 5303 and 5304 as a condition of eligibility for federal-aid funding. Without these documents, approvals and findings, FTA and FHWA cannot provide capital and/or operating assistance.

Respondents: State Departments of Transportation and MPOs.

Estimated Annual Respondents: 456 respondents.

Estimated Total Annual Burden: 4,198,379 hours.

Frequency: Annual.

Nadine Pembleton,

Director Office of Management Planning.

[FR Doc. 2020–18331 Filed 8–20–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0037]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval: Driver Interactions With Advanced Driver Assistance Technologies

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice and request for comments on a request for approval of a new information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. A **Federal Register** notice with a 60-day comment period soliciting comments on the following information collection was published on May 21, 2019 (84 FR 23154). NHTSA received 7 public comments. A summary of the comments and the changes NHTSA made in response to those comments is provided below.

DATES: Written comments should be submitted on or before September 21, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at *www.reginfo.gov/public/do/PRAMain.* To find this particular information collection, select ''Currently under 30-day Review—Open for Public Comment'' or use the search function.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Elizabeth Mazzae, Applied Crash Avoidance Research Division, Vehicle Research and Test Center, NHTSA, 10820 State Route 347—Bldg. 60, East Liberty, Ohio 43319; Telephone (937) 666–4511; Facsimile: (937) 666–3590; email address: *elizabeth.mazzae@dot.gov.*

SUPPLEMENTARY INFORMATION: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). In compliance with these requirements, this notice announces that the following information collection request has been forwarded to OMB.

OMB Control Number: To be issued at time of approval.

Title: Driver Interactions With Advanced Driver Assistance Technologies.

Form Numbers: NHTSA forms 1522, 1525, 1527.

Type of Request: New information collection.

Type of Review Requested: Regular.

Length of Approval Requested: Three years from the date of approval.

Abstract: NHTSA has proposed to perform research involving the collection of information from the public as part of a multi-year effort to learn about drivers' use of and behavior in interacting with certain advanced driver assistance technologies (ADAS). The research will involve on-road, semi-naturalistic driving experimentation in which participants who are members of the general public will drive government-owned instrumented production vehicles equipped with driver assistance technologies. The goal is to measure drivers' responses to system alerts and their frequency of system use, as well as observe their behavior during system use. This research will support NHTSA decisions relating to safe implementation of advanced driver assistance technologies.

The research will also investigate whether drivers' experience with one brand's ADAS impacts how they interact when driving another vehicle equipped with a different brand's systems. This scenario is one that would be experienced with rental cars and family vehicle sharing and will provide important insights into how differences in system operation and interface design aspects may cause usability issues. The observation of usability issues would inform NHTSA about the benefits of common system interface design aspects (*e.g.,* visual and auditory displays and controls).

Participants will include drivers with and without experience with the particular ADAS features being studied. Experienced drivers will be ones who own one of the two vehicle models equipped with the particular ADAS feature(s) being studied and can be verified to have a certain degree of experience in using the feature(s). Participants will be asked to drive a specified route over public roadways while using driver assistance technologies. Participants' actions to engage the assistance features and responses to unrequested disengagements will be observed and recorded.

Information will be collected during the course of the research through participant screening questions, recording of video and engineering data, and post-drive questionnaires. Questions addressed to individuals will serve to assess individuals' suitability for study participation, to obtain feedback regarding participants' use of the ADAS technologies, and to gauge individuals' level of comfort with and confidence in the technologies' performance and safety. Since qualitative feedback or self-report data is not sufficiently robust for the purpose of investigating driver performance/interaction issues with advanced vehicle control and safety technologies, objective data will also be recorded including driver eye glance behavior and hand locations. Eye glance behavior will reveal how drivers visually monitor and respond to visual alert information. Hand location data will provide information regarding how well drivers are able to engage the advanced driver assistance functions efficiently (*e.g.,* with one attempt or multiple attempts) and how long it takes. We will observe whether drivers engage in secondary tasks (*e.g.,* interacting with infotainment functions) during feature engagement.

Description of the Need for the Information and Proposed Use of the Information:

The National Highway Traffic Safety Administration's (NHTSA) mission is to save lives, prevent injuries, and reduce healthcare and other economic costs associated with motor vehicle crashes. As driver assistance technologies advance, they have the potential to dramatically reduce the number of motor vehicle crashes, injuries, and associated economic costs. The safety and effectiveness of the technologies depends on drivers understanding the capabilities, constraints, and visual and auditory alerts provided. Drivers' understanding of when assistance features are available to use and when they are not is important for safety. In particular, drivers must understand and respond quickly when a feature indicates that it is disengaging and the driver must retake full manual control of driving. This work seeks to gather information regarding how drivers who are inexperienced compare to drivers with experience using driver assistance features including advanced cruise control and either lane keeping assistance or lane centering assistance. The research will compare the two groups' use of these features in interactions, response to disengagement notifications, and proper use.

The collection of information will consist of: (1) Question Set 1, Driving Research Study Interest Response Form, (2) Question Set 2, Screening Questions, (3) passive observation of driving behavior, and (4) Question Set 3, Post-Drive Questionnaire.

Affected Public (Respondents): Research participants will be licensed drivers aged 25 years to 65 who drive at least an average number of miles annually (*e.g.,* 11,000 miles), are in good health, and do not require assistive devices to safely operate a vehicle and drive continuously for a period of 3 hours.

Estimated Number of Respondents: The data collection will have two equal-sized parts: One that will begin immediately upon receipt of PRA clearance and will involve use of two 2018–2019 model year U.S. production vehicle models. The second part of the data collection will begin after completion of the first part and will have the same approach, but will involve different vehicle models.

Information for both parts of the data collection will be collected in an incremental fashion to permit the determination of which individuals have the necessary characteristics for study participation. All interested candidates will complete Question Set 1, Driving Research Study Interest Response Form. A subset of individuals meeting the criteria for Question Set 1 will be asked to complete Question Set 2, Screening Questions. From the individuals found to meet the criteria for both Questions sets 1 and 2, a subset will be chosen with the goal of achieving a sample providing a balance of age and sex to be scheduled for study participation.

A summary of the estimated numbers of individuals that will complete the noted question sets across both the first and second data collection parts is provided in the following table. Both data collection parts will involve approximately 500 respondents for Question Set 1, 300 for Question Set 2, and 150 for Question Set 3.

ESTIMATED NUMBER OF RESPONDENTS

Questions	Total N
Question Set 1, Driving Research Study Interest Response Form	1000
Question Set 2, Screening Questions	600
Question Set 3, Post-Drive Questionnaire	300

Estimated Time per Response: For both parts of the data collection, completion of Question Set 1, Driving Research Study Interest Response Form is estimated to take approximately 5 minutes and completion is estimated to take approximately 7 minutes for Question Set 2, Screening Questions. Completion of Question Set 3, Post-Drive Questionnaire is estimated to take 15 minutes per inexperienced participant and 20 minutes per experienced participant for both parts of data collection.

The estimated annual time and cost burdens across both the first and second data collection parts are summarized in the table below. For example, the anticipated number of individuals completing Question Set 1 for part 1 of the data collection is half of 1000, or 500, and so on.

The number of respondents and time to complete each question set are estimated as shown in the table. The time per question set is calculated by multiplying the number of respondents by the time per respondent and then converting from minutes to hours. The hour value for each question set is multiplied by the latest average hour earning estimate from the Bureau of Labor Statistics [1] to obtain an estimated burden cost per question set.

ESTIMATED TIME PER RESPONSE AND TOTAL TIME

Question set	Question topic	Participants	Time per response (minutes)	Pay rate *	Total burden hours	Total cost
1	Driving Research Study Interest Response Form.	1000	5	$28.32	83.3	$ 2,359.91
2	Screening Questions	600	7	28.32	70.0	1,982.40
3	Post-Drive Questionnaire, Inexperienced	150	15	28.32	37.5	1,062.00
	Post-Drive Questionnaire, Experienced	150	20	28.32	50.0	1,416.00
Total Estimated Burden					240.8	6,820.31

Frequency of Collection: The data collections described will be performed once to obtain the target number of 300 valid test participants.

On May 21, 2019, NHTSA published a 60-day notice requesting public comment on the proposed collection of information.[2] We received comments from seven entities, including four organizations and three individuals. Organizations submitting comments included AAA, The Center for Auto Safety, Consumer Reports, and the Motor & Equipment Manufacturers Association (MEMA). All comments were supportive of the research. No comments addressed the questions to be asked of participants. Some suggestions for clarifying and expanding the research are summarized below.

Some comments requested clarification of participation criteria, such as a more detailed definition of what NHTSA would consider ''experience'' with using an ADAS. For example, AAA recommended that in relation to study participant recruitment, NHTSA should collect more information on candidate participants' personally-owned vehicle(s), any ADAS features on their vehicle(s), and the individuals' experience with respect to ADAS technologies. NHTSA wishes to clarify that the participant recruitment criteria listed in the prior published 60-day PRA information collection notice was not a complete accounting of all information that will be considered in screening candidate participants. The notice was an announcement of a planned information collection for the purposes of obtaining PRA clearance and not a full, detailed accounting and substantiation of a research plan. NHTSA has a strategy for characterizing drivers' experience with the specific vehicle models and ADAS technologies planned for involvement in the study. For example, NHTSA will query state vehicle registration data for a particular VIN pattern to identify owners of vehicle models equipped with the technology of interest. In addition, vehicle registration data will provide information regarding how long an individual has owned the vehicle. A minimum annual driving mileage requirement will be used and participants will be required to be a primary driver of the vehicle model of interest. Owners will also be questioned about their use of the technology and also be observed using the technology during the experimental training step to allow us to confirm that the individual has an acceptable degree of system-use knowledge desired for the study.

Some comments suggested adjustments to study participation criteria, such as lowering the minimum annual mileage driven and including younger and older drivers.

1. A suggestion to lower the minimum annual driving mileage criterion of 14,000 miles was submitted by both AAA and The Center for Auto Safety. AAA commented that the stated mileage criterion corresponded to drivers ''who are in the top quartile of all drivers nationwide with respect to annual driving mileage . . .''. The study's annual mileage criterion is based on a desire to obtain participants who drive regularly. NHTSA agrees that annual driving miles statistics show a declining trend. In response to these comments

[1] * Cost per hour based on Bureau of Labor Statistics Dec. 2019 Average Hourly Earnings data for ''Total Private,'' $28.32 (Accessed Jan. 28, 2020 at *https://www.bls.gov/news.release/empsit.t19.htm*).

[2] 84 FR 23154 (May 21, 2019).

and further review of available data, the minimum annual driving mileage criterion will be lowered to 11,000 miles.

2. The Center for Auto Safety commented that the stated participant age range of 25–54 years does not account for the other 49 percent of the driver population who are under 25 years of age or over 54 and that ''. . . one of the fastest growing cohorts in the United States are people aged 65 and older.'' For this research, due to limited time and funding with which to conduct the research, NHTSA chose a single age group consisting of the ''middle age'' range of drivers, those aged 25 to 65, that is considered to have generally homogeneous driving behavior characteristics. NHTSA will consider including younger and older drivers in subsequent research efforts.

Other comments suggested broadening the study scope to include additional vehicle models and a variety of traffic scenarios and conditions.

1. Regarding the route over public roads that participants will drive in the research, AAA stated that the ''course should entail a variety of road conditions including divided limited access highways, two lane rural roads and surface streets, as appropriate. Varying traffic conditions should be included as well.'' Route selection for the first part of this research is constrained by the operational design domain (ODD) of technologies and vehicle models chosen for the study. As such, the route to be used in the first part of this work will necessarily consist of multi-lane highways. For the second part of this research, NHTSA will consider available production ADASs and their ODDs when selecting the route to be used for testing.

2. Both AAA and MEMA recommended that the study route should permit participants to use the technologies in different types of traffic conditions and traffic volumes. NHTSA will not control for traffic volumes directly in this research, but will constrain testing hours to daylight periods and will record video data documenting traffic conditions experienced by participants during their experimental drives for later characterization as part of data analysis.

3. Consumer Reports expressed concern that only two vehicle models are planned for use in the first part of this research. They noted that the ''capabilities and limitations of these systems can vary greatly among manufacturers, and thus it would be very difficult to generalize the results to all vehicles if NHTSA's research includes only two vehicle models.'' While testing additional models would likely provide additional interesting information, it is not feasible to test a large number of vehicle models using the planned research method and ensure timely and relevant results. In choosing vehicle models, we considered feature availability, feature performance (*e.g.,* can lateral and longitudinal control be engaged simultaneously?), and sales. The two vehicles' chosen have different strategies for determining when lateral and longitudinal control may be engaged: One is speed based and the other is map/location based. One of the two vehicle models is also a fairly frequently purchased model for which the ADAS technologies of interest are standard equipment.

For the second, subsequent part of this research, NHTSA will consider available production ADAS-equipped vehicles and their ODDs and choose ones that will best help us answer important safety questions.

4. A comment from AAA stated that ''NHTSA should ensure that the methodology used for comparing vehicles accounts for the system variations, while tabulating the number and reason for disengagements of the system.'' NHTSA wishes to clarify that the focus of this research is not on comparing systems from different manufacturers, but rather to examine how effectively drivers use and interact with ADAS technologies involved in the research. The research will also examine the efficacy of the systems' different means of communication with the driver in relation to status of the ADAS feature(s). NHTSA has other ongoing research efforts that focus on characterizing technology performance separate from the driver behavior and technology use context.

5. MEMA recommended increasing the survey accuracy by increasing sample size. The total number of participants planned for this on-road, semi-naturalistic driving research is 300. For on-road, instrumented vehicle research, this number represents quite a large number of research participants and would require substantial funding and labor effort to complete the work. NHTSA's preliminary calculations show that the planned sample size will provide ample statistical power for the study analyses planned.

6. AAA suggested that ''Before moving forward with experimental design, NHTSA should provide the public and industry an opportunity to conduct a design review.'' This step could be critical in ensuring that automakers who design and deploy advanced driver assistance technologies can provide appropriate feedback and highlight important information to NHTSA to optimize research results.'' NHTSA generally welcomes exchanges of information with industry partners. In this instance, however, the approach and experimental design for the first part of this research is complete, as the study's magnitude in terms of number of participants and time required for participation (*i.e.,* time burden) must be estimated in order to request clearance under the Paperwork Reduction Act. NHTSA has taken pains to ensure that the systems involved in the research will be production ADAS-equipped vehicles that are currently available for sale to the American public. Also, the vehicles will necessarily be driven on roadways that maximize the opportunity for use of the ADS features being examined given the ODD of those features. Therefore, we are confident that the study results will provide useful information to automakers.

Three additional comments from individual members of the public highlighted concerns regarding driving automation. One commenter concerned about the possibility of vehicles being hacked and remotely controlled asserted that in all vehicles with driving automation capability, ''there needs to be the standard automotive equipment and a manual override switch in place'' so that ''in case something happens it can be changed back to 'normal' vehicle functions instantly.'' Another individual suggested that ''in addition to instrumented vehicles for data collection, the latest in virtual reality technology be leveraged for such efforts.'' Lastly, a commenter stated his belief that automation in vehicles needs to be ''all or nothing because as drivers get acclimated to automation they will lose their proficiency at driving a vehicle. In my opinion all vehicles . . . will have to operate on the same system, with no human responsibilities . . .''.

NHTSA appreciates the suggestions regarding participation criteria and additional experimental conditions to consider; however, the scope of the current work is limited by both program timeline and allocated funding amount. NHTSA will keep in mind the suggestions as input for future research programs.

Public Comments Invited

You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the department to enhance the quality, utility and clarity of the information collection; and (d) ways

that the burden could be minimized without reducing the quality of the collected information.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29.

Issued in Washington, DC.

Cem Hatipoglu,

Associate Administrator, Office of Vehicle Safety Research.

[FR Doc. 2020–18409 Filed 8–20–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8941

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Credit for Small Employer Health Insurance Premiums.

DATES: Written comments should be received on or before October 20, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, at (202)317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Credit for Small Employer Health Insurance Premiums.

OMB Number: 1545–2198.

Form Number: 8941.

Abstract: Section 1421 of the Patient Protection and Affordable Care Act, Public Law 111–148, allows qualified small employers to elect, beginning in 2010, a tax credit for 50% of their employee health care coverage expenses. Form 8941, Credit for Small Employer Health Insurance Premiums, has been developed to help employers compute the tax credit.

Current Actions: There are no changes being made to this form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, Business or other for-profit groups, Not-for-profit institutions, Farms, Federal Government, State, Local, or Tribal Governments.

Estimated Number of Respondents: 3,046,964.

Estimated Time Per Respondent: 11 hours 15 minutes.

Estimated Total Annual Burden Hours: 34,278,346.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 14, 2020.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2020–18321 Filed 8–20–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 211

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Application for Award for Original Information.

DATES: Written comments should be received on or before October 20, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Award for Original Information.

OMB Number: 1545–0409.

Form Number: 211.

Abstract: Form 211 is the official application form used by persons requesting rewards for submitting information concerning alleged violations of the tax laws by other persons. Such rewards are authorized by Internal Revenue Code Section 7623. The data is used to determine and pay rewards to those persons who voluntarily submit information.

Current Actions: There are no changes being made to this form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 20,000.

Estimated Time per Respondent: 45 mins.

Estimated Total Annual Burden Hours: 15,000.

The following paragraph applies to all of the collections of information covered by this notice: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the

administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 15, 2020.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2020–18322 Filed 8–20–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8963

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Report of Health Insurance Provider Information.

DATES: Written comments should be received on or before October 20, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, at (202)317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Report of Health Insurance Provider Information.

OMB Number: 1545–2249.

Form Number: 8963.

Abstract: Form 8963 established under Section 9010 of the Patient Protection and Affordable Care Act (PPACA), and Public Law 111–148 (124 Stat. 119 (2010)), as amended by section 10905 of PPACA, and as further amended by section 1406 of the Health Care and Education Reconciliation Act of 2010, Public Law 111–152 (124 Stat. 1029 (2010)), which requires any covered entity engaged in the business of providing health insurance related to United States health risks to annually report its net premiums written.

Current Actions: There are no changes being made to this form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business and other for-profit organizations and Not-for-profit organizations.

Estimated Number of Respondents: 3,200.

Estimated Total Annual Burden Hours: 18,208.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 14, 2020.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2020–18320 Filed 8–20–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to comment on the proposed information collections listed below, in accordance with the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before October 20, 2020.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8100, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Molly Stasko by emailing *PRA@treasury.gov,* calling (202) 622–8922, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 1505–0231.

Type of Review: Extension without change of a currently approved collection.

Description: The collection of information is necessary for the Department to solicit customer and stakeholder feedback with respect to timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public.

Form: None.

Affected Public: Businesses or other for-profits; Non-profit institutions, State and Local Governments; Individuals and Households.

Estimated Number of Respondents: 14,000.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 14,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 3,500 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: August 18, 2020.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2020–18432 Filed 8–20–20; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

Genomic Medicine Program Advisory Committee

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, that a meeting of the Genomic Medicine Program Advisory Committee (the Committee) will be held virtually on Tuesday, September 29, 2020. The meeting will begin at 11 a.m. EDT and adjourn at 3 p.m. EDT. The meeting is open to the public via Webex *https://veteransaffairs.webex.com/webappng/sites/veteransaffairs/meeting/download/2fe78c5a7b874c6398af6379146b75bc?siteurl=veteransaffairs&MTID=mc2d13b50a0af24cf5a588b56eb6ad82d* password 2NSxcpaP@33 or by phone at call in +1 (404) 397–1596 meeting code: 1993331445#.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on using genetic information to optimize medical care for Veterans and to enhance development of tests and treatments for diseases particularly relevant to Veterans.

On September 29, 2020, the Committee will receive updated briefings on various VA research programs, including the Million Veteran Program (MVP) to ascertain the progress of the program in the areas of participant recruitment, data generation and storage, and data access. The Committee will also receive updates from ongoing MVP research, including new COVID related research, return of genetics results pilot studies, draft recommendations from a subcommittee on Genomics Services within the VA, and a new initiative on increasing diversity and inclusion in VA research. Additionally, the Committee will discuss and explore potential recommendations to be included in the next annual report.

Public comments will be received at 2:15 p.m. EDT and are limited to 5 minutes each. Individuals who speak are invited to submit a 1–2 page summary of their comments for inclusion in the official meeting record to Jennifer Moser, Designated Federal Officer, Office of Research and Development (10X2), 810 Vermont Avenue NW, Washington, DC 20420, or at *Jennifer.Moser@va.gov.* In the communication, writers must identify themselves and state the organization, association or person(s) they represent. Any member of the public who wishes to attend the teleconference should RSVP to Jennifer Moser at 202–510–4253 no later than close of business, September 22, 2020, at the phone number or email address noted above.

Dated: August 18, 2020.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2020–18410 Filed 8–20–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0011]

Agency Information Collection Activity: Application for Reinstatement—Insurance Lapsed More Than 6 Months and Application for Reinstatement Non-Medical Comparative Health Statement

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0011.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, (202) 421–1354 or email *Danny.Green2@va.gov.* Please refer to ''OMB Control No. 2900–0011'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Application for Reinstatement—Insurance Lapsed More than 6 Months (VA Form 29–352) and Application for Reinstatement—Non-Medical Comparative Health Statement (VA Form 29–353).

OMB Control Number: 2900–0011.

Type of Review: Reinstatement of a currently approved collection.

Abstract: These forms are used by veterans who are requesting a reinstatement of their lapsed Insurance policies.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 85 FR 13091, on June 18, 2020, page 36936.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,125 hours.

Estimated Average Burden per Respondent: 22.5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 3,000.

By direction of the Secretary.

Danny S. Green,

VA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020–18323 Filed 8–20–20; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 85 Friday,
No. 163 August 21, 2020

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final 2020–21 Frameworks for Migratory Bird Hunting Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2019–0004; FF09M21200–201–FXMB1231099BPP0]

RIN 1018–BD89

Migratory Bird Hunting; Final 2020–21 Frameworks for Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) prescribes final frameworks from which States may select season dates, limits, and other options for the 2020–21 migratory bird hunting seasons. We annually prescribe frameworks, or outer limits, for dates and times when hunting may occur and the number of birds that may be taken and possessed in hunting seasons. These frameworks are necessary to allow State selections of seasons and limits and to allow harvest at levels compatible with migratory game bird population status and habitat conditions. Migratory game bird hunting seasons provide opportunities for recreation and sustenance, and aid Federal, State, and Tribal governments in the management of migratory game birds.

DATES: This rule takes effect on August 21, 2020.

ADDRESSES: States should send their season selections to: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041–3803. You may inspect comments received on the migratory bird hunting regulations at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2019–0004. You may obtain copies of referenced reports from the street address above, or from the Division of Migratory Bird Management's website at *http://www.fws.gov/migratorybirds/,* or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2019–0004.

FOR FURTHER INFORMATION CONTACT: Jerome Ford, U.S. Fish and Wildlife Service, Department of the Interior, (202) 208–1050.

SUPPLEMENTARY INFORMATION:

Process for Establishing Annual Migratory Game Bird Hunting Regulations

As part of the Department of the Interior's 2015 retrospective regulatory review, we changed our process for developing migratory game bird hunting regulations with the goal of enabling the State agencies to select and publish their season dates earlier than was allowed under the prior process. We provided a detailed overview of this process in the August 3, 2017, **Federal Register** (82 FR 36308). This final rule is the third in a series of proposed and final rules that establish regulations for the 2020–21 migratory bird hunting season.

Regulations Schedule for 2020

On October 15, 2019, we published in the **Federal Register** (84 FR 55120) a proposal to amend title 50 of the Code of Federal Regulations (CFR) at part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2020–21 regulatory cycle relating to open public meetings and **Federal Register** notifications were illustrated in the diagram at the end of the October 15, 2019, proposed rule. For this regulatory cycle, we combined elements of the document that is described in the diagram as Supplemental Proposals with the document that is described as Proposed Season Frameworks.

Further, the October 15, 2019, proposed rule set forth a list of numbered headings under which all subsequent hunting frameworks and guidelines would be organized (see 84 FR 55122). Because each of the regulatory documents in this rulemaking cycle includes only those numbered items requiring attention, the list of remaining numbered items appears incomplete.

We provided the meeting dates and locations for the Service Regulations Committee (SRC) and Flyway Council meetings on Flyway calendars posted on our website at *https://www.fws.gov/birds/management/flyways.php.* On October 8–9, 2019, we held open meetings with the Flyway Council Consultants, at which the participants reviewed information on the current status of migratory game birds and developed recommendations for the 2020–21 regulations for these species. The October 15, 2019, proposed rule provided detailed information on the proposed 2020–21 regulatory schedule and announced the SRC meetings.

On March 19, 2020, we published in the **Federal Register** (85 FR 15870) the proposed frameworks for the 2020–21 season migratory bird hunting regulations. We have considered all pertinent comments received through the close of the comment period on April 20, 2020, which includes comments submitted in response to our October 15 and March 19 proposed rulemaking documents and comments from the October SRC meeting. This document establishes final frameworks for migratory bird hunting regulations for the 2020–21 season and includes no substantive changes from the March 19, 2020, proposed rule. We will publish State selections in the **Federal Register** as amendments to §§ 20.101 through 20.107 and 20.109 of title 50 CFR part 20.

Population Status and Harvest

Each year we publish reports that provide detailed information on the status and harvest of certain migratory gamebird species. These reports are available at the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our website at *https://www.fws.gov/birds/surveys-and-data/reports-and-publications/population-status.php.*

We used the following annual reports published in August 2019 in the development of proposed frameworks for the migratory bird hunting regulations: Adaptive Harvest Management, 2020 Hunting Season; American Woodcock Population Status, 2019; Band-tailed Pigeon Population Status, 2019; Migratory Bird Hunting Activity and Harvest During the 2017–18 and 2018–19 Hunting Seasons; Mourning Dove Population Status, 2019; Status and Harvests of Sandhill Cranes, Mid-continent, Rocky Mountain, Lower Colorado River Valley and Eastern Populations, 2019; and Waterfowl Population Status, 2019.

Our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Having taken into account the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, we conclude that the hunting seasons provided for herein are compatible with the current status of migratory bird populations and long-term population goals. Additionally, we are obligated to, and do, give serious consideration to all information received during the public comment period.

Review of Public Comments and Flyway Council Recommendations

The preliminary proposed rulemaking, which appeared in the October 15, 2019, **Federal Register** (84 FR 55120), opened the public comment period for migratory game bird hunting regulations and described the proposed regulatory alternatives for the 2020–21 duck hunting season. Comments and recommendations are summarized below and numbered in the order set forth in the October 15, 2019, proposed rule.

We received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below. As explained earlier in this document, we have included only the numbered items pertaining to issues for which we received recommendations. Consequently, the issues do not follow in successive numerical order.

General

Written Comments: Several (11) commenters protested the entire migratory bird hunting regulations process, the killing of all migratory birds, and questioned the status and habitat data on which the migratory bird hunting regulations are based. Several (6) commenters were opposed to making any regulatory changes, and one commenter supported the proposed regulations. Several (4) commenters expressed interest in a longer duck season in the Pacific and Mississippi Flyways; two commenters expressed support for additional youth hunting opportunity or youth waterfowl hunting longer than one day and more than one week before the regular duck season; and one commenter expressed concern that penalties for regulation violations may be inadequate to dissuade violations.

Service Response: As we indicated above under Population Status and Harvest our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. We have taken into account available information and considered public comments and continue to believe that the hunting seasons provided for herein are compatible with the current status of migratory bird populations and long-term population goals. The Flyway Council system of migratory bird management has been a longstanding example of State—Federal cooperative management since its establishment in 1952. However, as always, we continue to seek new ways to streamline and improve the process.

In regard to longer duck seasons, we develop duck hunting regulations cooperatively with the four Flyway Councils and use an adaptive harvest management (AHM) decision framework that allows selection of the optimal regulation each year based on agreed-upon objectives, regulatory alternatives, population models, observed and expected harvest, habitat conditions, and the status of duck populations (see 1. Ducks, below, for more details on the process for establishing duck hunting regulations). Public comments are considered in developing and revising these AHM protocols. Also, recent duck seasons in the Pacific Flyway are 107 days, which is the maximum season length allowed by the Migratory Bird Treaty Act (16 U.S.C. 703–711). Finally, Federal guidelines currently allow States to offer 2 special youth waterfowl hunting days, and these days can be up to 14 days before the regular duck season. Federal frameworks provide opportunity for youth to hunt each day that a hunting season is open, and States could choose to add more days of youth-only hunting within their regular seasons if such opportunities are a priority.

Regarding law enforcement, this rule proposes frameworks, or outside limits, for migratory bird hunting. States then select hunting seasons within these outside limits to allow harvest at levels compatible with migratory bird population status and habitat conditions. States subsequently establish regulations consistent with these season selections. Enforcement of migratory bird hunting regulations is a shared responsibility between State and Federal government agencies, and penalties for violations of these regulations are established under separate State and Federal rulemaking processes. The Service's Division of Migratory Bird Management discusses regulatory issues with law enforcement personnel to ensure that proposed regulations are enforceable.

1. Ducks

A. General Harvest Strategy

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils each recommended adopting the liberal regulatory alternative for their respective flyways.

The Mississippi and Central Flyway Councils further recommended several changes to the AHM decision framework for mid-continent mallards beginning with the 2021–2022 (next) season. Specifically, the Mississippi Flyway Council made the following recommendations:

(1) Continue to base the annual regulatory decision on current mallard breeding population estimates and spring pond counts in central North America (Federal Waterfowl Breeding Population and Habitat Survey [WBPHS] strata 13–18, 20–50, and 75–77), and in Michigan, Minnesota, and Wisconsin (State surveys).

(2) Remove the North American Waterfowl Management Plan (NAWMP) mallard population goal from the AHM objective function.

(3) Replace the current four discrete models with a model parameterization based on the estimation results from an annually updated integrated population model.

(4) For the three AHM regulatory open-season alternatives, provide a duck hunting season framework start date of the Saturday nearest September 24 and an end date of January 31.

(5) Allow no other changes from current AHM regulatory alternatives until additional work on revisions to other species' strategies is completed.

(6) Allow no changes to current bag limits or harvest strategies for duck species other than mallards until additional work on revisions to other species' strategies is completed.

The Central Flyway Council recommendations were consistent with Mississippi Flyway Council recommendations 1–4 and 6, but the Central Flyway Council also recommended that the bag limit for male mallards in the moderate and liberal regulatory alternatives for the Central Flyway be increased by one bird, so that the male mallard bag limit would be the same as the overall duck bag limit of six birds. This recommendation is in opposition to Mississippi Flyway Council recommendation 5.

Service Response: As we stated in the October 15, 2019, proposed rule, we intend to continue the use of AHM to help determine appropriate duck-hunting regulations for the 2020–21 season. AHM is a tool that permits sound resource decisions in the face of uncertain regulatory impacts and provides a mechanism for reducing that uncertainty over time. We use an AHM

protocol (decision framework) to evaluate four regulatory alternatives, each with a different expected harvest level, and choose the optimal regulation for duck hunting based on the status and demographics of mallards for the Mississippi, Central, and Pacific Flyways, and based on the status and demographics of a suite of four species (eastern waterfowl) in the Atlantic Flyway (see below, and the earlier referenced report ''Adaptive Harvest Management, 2020 Hunting Season'' for more details). We have specific AHM protocols that guide appropriate bag limits and season lengths for species of special concern, including black ducks, scaup, and pintails, within the general duck season. These protocols use the same outside season dates and lengths as those regulatory alternatives for the 2020–21 general duck season.

For the 2020–21 hunting season, we will continue to use independent optimizations to determine the appropriate regulatory alternative for mallard stocks in the Mississippi, Central, and Pacific Flyways and for eastern waterfowl in the Atlantic Flyway. This means that we will develop regulations for mid-continent mallards, western mallards, and eastern waterfowl independently based on the breeding stock that contributes primarily to each Flyway. We detailed implementation of AHM protocols for mid-continent and western mallards in the July 24, 2008, **Federal Register** (73 FR 43290), and for eastern waterfowl in the September 21, 2018, **Federal Register** (83 FR 47868).

Regarding the Mississippi and Central Flyway Councils' recommendations for changes to the mid-continent mallard AHM protocol for next season, the Service has used an AHM protocol since 1995 to determine appropriate hunting season regulations for mid-continent mallards. The protocol includes (1) an objective function that devalues harvest if predicted population size of mid-continent mallards is below the population goal described in the NAWMP; (2) a set of four discrete models that incorporates the effects of harvest and mallard density on population demographics; and (3) a set of four regulatory alternatives. During the past five years, the Service and the Mississippi and Central Flyway Councils have undertaken a revision process to examine both the objectives of harvest management for the mid-continent mallard population, and the appropriateness of the models used to estimate changes in their demographics. As a result of this review, the two Flyway Councils have recommended changes to the mid-continent mallard AHM protocol.

We agree with the Mississippi and Central Flyway Councils' recommendations for changes to the mid-continent mallard AHM protocol beginning with the 2021–22 season where the recommendations from the two Councils are in agreement (see B. Regulatory Alternatives, below, for more discussion on Council recommended changes to regulatory alternatives). The two Councils' recommendations differed in mallard daily bag limits. Consistent with past issues where Councils that share a migratory bird population have differing recommendations, the Service will not choose one Council's recommendation over another. Rather, the two Councils should forward a consensus recommendation that either (1) adopts the Central Flyway Council recommendation for mallard bag limits; (2) adopts the Mississippi Flyway Council recommendation for mallard bag limits (status quo); or (3) endorses each other's recommendation and accepts differences in the regulatory alternatives across flyways. Since such an agreement between the flyways has not yet been reached, the Service supports mallard bag limits for the 2021–22 season that are the same as those from the 2020–21 season where the two Councils were last in agreement (*i.e.,* no change).

Atlantic Flyway

For the Atlantic Flyway, we set duck-hunting regulations based on the status and demographics of a suite of four duck species (eastern waterfowl) in eastern Canada and the Atlantic Flyway States: Green-winged teal, common goldeneye, ring-necked duck, and wood duck. For purposes of the assessment, eastern waterfowl stocks are those breeding in eastern Canada and Maine (Federal WBPHS fixed-wing surveys in strata 51–53, 56, and 62–70, and helicopter plot surveys in strata 51–52, 63–64, 66–68, and 70–72) and in Atlantic Flyway States from New Hampshire south to Virginia (Atlantic Flyway Breeding Waterfowl Survey, AFBWS). Breeding population size estimates for green-winged teal, ring-necked ducks, and goldeneyes are derived annually by integrating fixed-wing and helicopter survey data from eastern Canada and Maine (WBPHS strata 51–53, 56, and 62–72). Counts of green-winged teal, ring-necked ducks, and goldeneyes in the AFBWS are negligible and therefore excluded from population estimates for those species. Breeding population size estimates for wood ducks in the Atlantic Flyway (Maine south to Florida) are estimated by integrating data from the AFBWS and the North American Breeding Bird Survey. Counts of wood ducks from the WBPHS are negligible and therefore excluded from population estimates.

For the 2020–21 hunting season, we evaluated alternative harvest regulations for eastern waterfowl using: (1) A management objective of 98 percent of maximum long-term sustainable harvest for eastern waterfowl; (2) the 2020–21 regulatory alternatives; and (3) current stock-specific population models and associated weights. Based on the liberal regulatory alternative selected for the 2019–20 duck hunting season, the 2019 survey estimates of 0.30 million green-winged teal, 1.02 million wood ducks, 0.69 million ring-necked ducks, and 0.52 million goldeneyes, the optimal regulation for the Atlantic Flyway is the liberal alternative. Therefore, we concur with the recommendation of the Atlantic Flyway Council regarding selection of the liberal regulatory alternative as described in the October 15, 2019, proposed rule for the 2020–21 season.

The mallard bag limit in the Atlantic Flyway is based on a separate assessment of the harvest potential of eastern mallards (see xi. Other, below, for further discussion on the mallard bag limit in the Atlantic Flyway).

Mississippi and Central Flyways

For the Mississippi and Central Flyways, we set duck-hunting regulations based on the status and demographics of mid-continent mallards and habitat conditions (pond numbers in Prairie Canada). For purposes of the assessment, mid-continent mallards are those breeding in central North America (Federal WBPHS strata 13–18, 20–50, and 75–77), and in Michigan, Minnesota, and Wisconsin (State surveys).

For the 2020–21 hunting season, we evaluated alternative harvest regulations for mid-continent mallards using: (1) A management objective of maximum long-term sustainable harvest; (2) the 2020–21 regulatory alternatives; and (3) current population models and associated weights. Based on a liberal regulatory alternative selected for the 2019–20 hunting season, the 2019 survey estimates of 9.73 million mid-continent mallards and 2.86 million ponds in Prairie Canada, the optimal regulation for the Mississippi and Central Flyways is the liberal alternative. Therefore, we concur with the recommendations of the Mississippi and Central Flyway Councils regarding selection of the liberal regulatory alternative as described in the October

15, 2019, proposed rule for the 2020–21 season.

Pacific Flyway

For the Pacific Flyway, we set duck-hunting regulations based on the status and demographics of western mallards. For purposes of the assessment, western mallards consist of two substocks and are those breeding in Alaska and Yukon Territory (Federal WBPHS strata 1–12) and those breeding in the southern Pacific Flyway including California, Oregon, Washington, and British Columbia (State and Provincial surveys) combined.

For the 2020–21 hunting season, we evaluated alternative harvest regulations for western mallards using: (1) A management objective of maximum long-term sustainable harvest; (2) the 2020–21 regulatory alternatives; and (3) the current population model. Based on a liberal regulatory alternative selected for the 2019–20 hunting season, the 2019 survey estimates of 0.89 million western mallards in Alaska and the Yukon Territory (0.36 million) and the southern Pacific Flyway (0.52 million), the optimal regulation for the Pacific Flyway is the liberal alternative. Therefore, we concur with the recommendation of the Pacific Flyway Council regarding selection of the liberal regulatory alternative as described in the October 15, 2019, proposed rule for the 2020–21 season.

B. Regulatory Alternatives

Council Recommendations: The Mississippi and Central Flyway Councils recommended that the duck framework opening and closing dates be the Saturday nearest September 24 and January 31, respectively, for the three AHM regulatory open-season alternatives beginning with the 2021–22 (next) season.

Service Response: We agree with the Mississippi and Central Flyway Councils' recommendations for opening and closing dates for duck season frameworks beginning with the 2021–22 season, which are slightly different from what the Service identified in the October 15, 2019, proposed rule (84 FR 55128). The John D. Dingell, Jr. Conservation, Management, and Recreation Act of 2019 (Pub. L. 116–9) amended the Migratory Bird Treaty Act to establish that the closing framework date for duck seasons will be January 31, unless a flyway chooses an earlier closing date. The recommendations to change the opening framework date represent a one-week earlier opening in the restrictive regulatory alternative for the Mississippi and Central Flyways, but no changes to the moderate or liberal alternatives. We expect this change to have a negligible impact on duck harvests and population status. The AHM regulatory alternatives vary in the amount of harvest pressure allowed (*i.e.,* by differences in season lengths and bag limits) and are prescribed annually based on current waterfowl status. Implementation of the appropriate alternative each year, and thus harvest pressure, will ensure long-term conservation of duck populations.

C. Zones and Split Seasons

Zones and split seasons are ''special regulations'' designed to distribute hunting opportunities and harvests according to temporal, geographic, and demographic variability in waterfowl and other migratory game bird populations. For ducks, States have been allowed the option of dividing their allotted hunting days into two (or in some cases three) segments (splits) to take advantage of species-specific peaks of abundance or to satisfy hunters in different areas who want to hunt during the peak of waterfowl abundance in their area. However, the split-season option does not fully satisfy many States that wish to provide a more equitable distribution of harvest opportunities. Therefore, we also have allowed the establishment of independent seasons in up to four zones within States for the purpose of providing more equitable distribution of harvest opportunity for hunters throughout the State.

In 1978, we prepared an environmental assessment (EA) on the use of zones to set duck hunting regulations. A primary tenet of the 1978 EA was that zoning would be used to provide equitable distribution of duck hunting opportunities within a State or region. The intent was not to increase total annual waterfowl harvest in the zoned areas; target harvest levels were to be adjusted downward if they exceeded traditional levels as a result of zoning. Subsequent to the 1978 EA, we conducted a review of the use of zones and split seasons in 1990. The ability to detect the impacts of zones and splits on waterfowl demographics and harvest was poor because of the absence of adequate study designs and experimental controls, limitations in monitoring capacities, imprecise parameter estimates, and low power to detect changes in parameter estimates. Substantial concern remained about the unknown consequences of zones and split seasons on duck populations and harvest redistribution among States and flyways, potential reduced effectiveness of regulations (season length and bag limit) to reduce duck harvest if needed, and the administrative burden associated with changing regulations annually. Consequently, we established guidelines to provide a framework for controlling the proliferation of zones and split seasons. The guidelines identified a limited number of zone and split-season configurations that could be used for duck hunting and restricted the frequency of changes in State selection among these configurations to open seasons at the beginning of five-year intervals. The first open season was in 1991, with subsequent open seasons in 1996, 2001, 2006, 2011–2012, and 2016–2017. In 2011, we prepared a new EA analyzing proposed changes to the guidelines for zones and split seasons. Revised guidelines were finalized in 2011 (76 FR 53536; August 26, 2011).

We discussed and presented guidelines for duck zones and split seasons during 2021–25 seasons in the October 15, 2019, proposed rule. We also stated that for those States wishing to change zone and split-season configurations in time for the 2021–25 seasons, we would need to receive configuration selections and zone descriptions by May 1, 2020.

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended that we modify the existing guidelines for duck zones and split seasons to allow an additional configuration including two zones with up to three season segments per zone for use beginning with the 2021–22 duck hunting season. The Mississippi Flyway Council also recommended the requirement that States selecting this additional configuration conduct an evaluation of changes in hunter numbers, satisfaction, and harvest. The Central and Pacific Flyway Councils further recommended additional zone and split-season configurations including: (1) One zone in each State may comprise up to two geographically separated areas, and (2) three zones with up to three season segments per zone. Finally, the Atlantic Flyway Council recommended that the deadline for States to select their zone and split-season configurations and define new zone boundaries be extended from May 1 to July 1, 2020.

Service Response: We agree with the recommendations of the Atlantic, Mississippi, Central, and Pacific Flyway Councils to allow an additional duck zone and split-season configuration with two zones and up to three season segments per zone beginning with the 2021–22 season. States that select this new configuration must conduct an evaluation of impacts to hunter dynamics (*e.g.,* hunter numbers, satisfaction) and harvest during the

fixed five-year period it is implemented (*e.g.,* 2021–25 period) and need to involve human dimensions specialists in the assessment.

We do not support the recommendations of the Central and Pacific Flyway Councils to add additional configurations including one zone with discontinuous boundaries or three zones with up to three season segments per zone. We remain concerned about the proliferation of zones, impacts to harvest, and potential confounding of these additional zone and split-season configurations with results from the Central Flyway Council's proposed two-tier license experiment. We need to better understand how additional zone and split-season configurations might influence hunter recruitment, retention, and reactivation (R3) efforts, and whether additional options run counter to the desire to simplify regulations. Therefore, we were supportive of additional discussions at the spring 2020 SRC meetings to help us better understand these additional options and how they can help us meet our mutual objectives while addressing R3 and waterfowl population concerns.

Finally, we will extend the deadline for States to select their zone and split-season configurations and to define potential new zone boundaries for the 2021–25 seasons to August 15, 2020, but we encourage States to submit their selections and zone boundaries as soon as possible.

For the 2021–25 seasons, the guidelines for duck zones and split seasons are as follows:

Guidelines for Duck Zones and Split Seasons

The following guidelines for zones and split seasons apply only for the regular duck season:

(1) A zone is a geographic area or portion of a State, with a contiguous boundary, for which independent dates may be selected for the regular duck season.

(2) Consideration of changes for management-unit boundaries is not subject to the guidelines and provisions governing the use of zones and split seasons for ducks.

(3) Only minor (less than a county in size) boundary changes will be allowed for any grandfathered arrangement, and changes are limited to the open season.

(4) Once a zone and split-season configuration is selected during an open season, it must remain in place for the following five years.

Any State may continue their zone and split-season configuration used in the previous five-year period. If changes are made, the zone and split-season configuration must conform to one of the following five options:

(1) One zone (same as no zones) with up to three season segments;

(2) Two zones with up to two season segments in each zone;

(3) Two zones with up to three season segments in each zone;

(4) Three zones with up to two season segments in each zone; or

(5) Four zones with a continuous season (*i.e.,* no segments) in each zone.

Because the two zones and three season segments configuration is new, States that select this configuration must conduct an evaluation of impacts to hunter dynamics (*e.g.,* hunter numbers, satisfaction) and harvest during the fixed five-year period it is implemented (*e.g.,* 2021–25 period).

Grandfathered Zone and Split Arrangements

When we first implemented the zone and split-season guidelines in 1991, several States had completed experiments with zone and split-season arrangements different from our original options. We offered those States a one-time opportunity to continue (''grandfather'') those arrangements, with the stipulation that only minor changes could be made to zone boundaries. If any of those States now wish to change their zone and split arrangement:

(1) The new arrangement must conform to one of the five options identified above; and

(2) The State cannot go back to the grandfathered arrangement that it previously had in place.

Mallard Management Units

For the States that have a recognized management unit (Columbia Basin Management Unit in the Pacific Flyway, High Plains Management Unit in the Central Flyway) and include a non-management unit portion, an independent 2-segment duck season with no zones can be selected for the management unit. The remainder of the State in the non-management unit portion can be zoned and have split seasons according to existing guidelines. In the Central Flyway, additional duck season days afforded to the management unit must occur on or after the Saturday nearest December 10.

D. Special Seasons/Species Management

i. September Teal Seasons

Council Recommendations: The Atlantic Flyway Council recommended Florida be granted operational status for the September teal-only season beginning with the 2020 season.

Service Response: We agree with the Atlantic Flyway Council's recommendation. Florida has met the minimum requirements for sample size and targets for nontarget species attempt rates in both the pre-sunrise and post-sunrise periods, which were below the acceptable rate of 25 percent. In addition the nontarget species harvest rates for both pre- and post-sunrise periods were below the acceptable rate of 10 percent.

iii. Black Ducks

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended continued use of the AHM protocol for black ducks, and adoption of the moderate regulatory alternative for their respective flyways. The Flyway-specific regulations consist of a daily bag limit of two black ducks and a season length of 60 days.

Service Response: The Service, Atlantic and Mississippi Flyway Councils, and Canada adopted an international AHM protocol for black ducks in 2012 (77 FR 49868; August 17, 2012) whereby we set black duck hunting regulations for the Atlantic and Mississippi Flyways (and Canada) based on the status and demographics of these birds. The AHM protocol clarifies country-specific target harvest levels, and reduces conflicts over regulatory policies.

For the 2020–21 hunting season, we evaluated country-specific alternative harvest regulations using: (1) A management objective of 98 percent of maximum long-term sustainable harvest; (2) country-specific regulatory alternatives; and (3) current population models and associated weights. Based on the 2019 survey estimates of 0.56 million breeding black ducks and 0.36 million breeding mallards (Federal WBPHS strata 51, 52, 63, 64, 66, 67, 68, 70, 71, and 72; core survey area), the optimal regulation for the Atlantic and Mississippi Flyways is the moderate alternative (and the liberal alternative in Canada). Therefore, we concur with the recommendations of the Atlantic and Mississippi Flyway Councils regarding selection of the moderate regulatory alternative for the 2020–21 season.

iv. Canvasbacks

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the liberal regulatory alternative for their respective flyways. The Flyway-specific regulations consist of a daily bag limit of two canvasbacks and a season length of 60 days in the

Atlantic and Mississippi Flyways, 74 days in the Central Flyway, and 107 days in the Pacific Flyway.

Service Response: As we discussed in the March 28, 2016, **Federal Register** (81 FR 17302), the canvasback harvest strategy that we had relied on until 2015 was not viable under our new regulatory process because it required biological information that was not yet available at the time a decision on season structure needed to be made. We do not yet have a new harvest strategy to propose for use in guiding canvasback harvest management in the future. However, we have worked with technical staff of the four Flyway Councils to develop a decision framework (hereafter, decision support tool) that relies on the best biological information available to develop recommendations for annual canvasback harvest regulations. The decision support tool uses available information (1994–2014) on canvasback breeding population size in Alaska and north central North America (Federal WBPHS traditional survey area, strata 1–18, 20–50, and 75–77), growth rate, survival, and harvest, and a population model to evaluate alternative harvest regulations based on a management objective of maximum long-term sustainable harvest. The decision support tool calls for a closed season when the population is below 460,000, a 1-bird daily bag limit when the population is between 460,000 and 480,000, and a 2-bird daily bag limit when the population is greater than 480,000. Based on the 2019 survey estimate of 686,000 canvasbacks, we concur with the recommendations of the four Flyway Councils regarding selection of the liberal regulatory alternative for the 2020–21 season.

v. Pintails

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the liberal regulatory alternative for their respective flyway. The Flyway-specific regulations consist of a daily bag limit of one pintail and a season length of 60 days in the Atlantic and Mississippi Flyways, 74 days in the Central Flyway, and 107 days in the Pacific Flyway.

Service Response: The Service and four Flyway Councils adopted an AHM protocol for pintail in 2010 (75 FR 44856; July 29, 2010) whereby we set pintail hunting regulations in all four Flyways based on the status and demographics of these birds.

For the 2020–21 hunting season, we evaluated alternative harvest regulations for pintails using: (1) A management objective of maximum long-term sustainable harvest, including a closed-season constraint of 1.75 million birds; (2) the regulatory alternatives; and (3) current population models and associated weights. Based on a liberal regulatory alternative with a 1-bird daily bag limit for the 2019–20 season and the 2019 survey estimates of 2.27 million pintails observed at a mean latitude of 54.4 degrees (Federal WBPHS traditional survey area, strata 1–18, 20–50, and 75–77), the optimal regulation for all four Flyways is the liberal alternative. Therefore, we concur with the recommendations of the four Flyway Councils regarding selection of the liberal regulatory alternative for the 2020–21 season.

vi. Scaup

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the restrictive regulatory alternative for the 2020–21 season. The Flyway-specific regulations consist of a 60-day season with a 1-bird daily bag limit during 40 consecutive days and a 2-bird daily bag limit during 20 consecutive days in the Atlantic Flyway, a 60-day season with a 2-bird daily bag limit during 45 consecutive days and a 1-bird daily bag limit during 15 consecutive days in the Mississippi Flyway, a 1-bird daily bag limit for 74 days in the Central Flyway, and an 86-day season with a 2-bird daily bag limit in the Pacific Flyway.

Service Response: The Service and four Flyway Councils adopted an AHM protocol for scaup in 2008 (73 FR 43290, July 24, 2008; and 73 FR 51124, August 29, 2008) whereby we set scaup hunting regulations in all four Flyways based on the status and demographics of these birds.

For the 2020–21 hunting season, we evaluated alternative harvest regulations for scaup using: (1) A management objective of 95 percent of maximum sustainable harvest; (2) the regulatory alternatives; and (3) the current population model. Based on a moderate regulatory alternative for the 2019–20 season and the 2019 survey results of 3.59 million scaup (Federal WBPHS traditional survey area, strata 1–18, 20–50, and 75–77), the optimal regulation for all four Flyways is the restrictive alternative. Therefore, we concur with the recommendations of the four Flyway Councils regarding selection of the restrictive alternative for the 2020–21 season.

xi. Other

Council Recommendations: The Atlantic Flyway Council recommended a mallard daily bag limit of two birds, only one of which could be female, for the Atlantic Flyway. The Central Flyway Council recommended that the Service allow South Dakota and Nebraska to evaluate a two-tier licensing system, wherein two different types of licenses would be available to hunters to harvest ducks. One license type would allow maximum harvest opportunity under the regulations, and would require the hunter to comply with all species and sex restrictions on the take of the various duck species. The second type of license would allow the hunter to take three ducks of any species each day of the season, thus not requiring the hunter to identify species prior to shooting them. The intent of this less-restrictive license type is to recruit and retain waterfowl hunters. The recommendation proposes that South Dakota and Nebraska be allowed to evaluate this new license system beginning with the 2020–21 season. The less-restrictive license would be available to any hunter (both residents and nonresidents), but the first license purchased in the State would require that the individual hunt under that license type for the entire season (for example, hunters purchasing multiple licenses in that State in a given season would always have to hunt under the strictures of the first license purchased; they could not change between the typical license type and the less-restrictive license type).

Service Response: We agree with the Atlantic Flyway Council's recommendation for a mallard daily bag limit of two birds, of which only one may be female, for the Atlantic Flyway. The Atlantic Flyway Council's eastern waterfowl AHM protocol (see above) did not specifically address bag limits for mallards. The number of breeding mallards in the northeastern United States (about two-thirds of the eastern mallard population in 1998) has decreased by about 38 percent since 1998, and the overall population has declined by about 1 percent per year during that time period. This situation has resulted in reduced harvest potential for that population. The Service conducted a Prescribed Take Level (PTL) analysis to estimate the allowable take (kill rate) for eastern mallards, and compared that with the expected kill rate under the most liberal season length (60 days) considered as part of the eastern waterfowl AHM regulatory alternatives.

Using contemporary data and assuming a management objective of maximum long-term sustainable harvest, the PTL analysis estimated an allowable kill rate of 0.194–0.198. The expected kill rate for eastern mallards

under a 60-day season and a 2-mallard daily bag limit in the U.S. portion of the Atlantic Flyway was 0.193 (SE = 0.016), which is slightly below (but not significantly different from) the point estimate of allowable kill at maximum long-term sustainable harvest. This calculation indicates that a 2-bird daily bag limit is sustainable at this time.

Regarding the Central Flyway Council's recommendation for a two-tier license system, the Service notes that a similar recommendation was first presented to the SRC by the Council in 2012, and was considered by the Service at that time. In 2015, after several years of discussion with the Council, the SRC concluded that, although they saw some merit in the proposal, the SRC did not believe sufficient evidence was presented showing that duck identification was a significant barrier to waterfowl recruitment and retention. Thus, the SRC did not support the proposal at that time, but stated that they would reconsider their decision if evidence showing that duck identification was a significant barrier to participation became available.

Since 2015, several surveys have been conducted that included questions asking respondents whether duck identification might deter them from hunting waterfowl. Results from some surveys suggest that may be the case, addressing at least in part the concerns the SRC had identified. However, the Service also recognizes that this proposal represents a significant change to the way it has set regulations since the early 1900s, and that a change of that magnitude requires significant input, planning, and documentation to meet legal concerns and ensure that reliable information results from the study to assist decision makers in the future.

Therefore, the Service intends to approve a limited two-tier licensing system in selected States to assess impacts to hunters and duck harvests, but not during the 2020–21 season as proposed in the Central Flyway Council's recommendation. Rather, the Service tasked Division of Migratory Bird Management staff to work with the Flyway Councils to develop a team to address the components needed in an evaluation, and to have a draft evaluation plan that is supported by both the Division of Migratory Bird Management and the Flyway Councils ready for review prior to the spring 2020 SRC meeting. The Service believes that completing National Environmental Policy Act (NEPA) compliance, developing shared objectives, identifying appropriate metrics for evaluation, potentially modifying monitoring efforts, and addressing law enforcement concerns are important elements to consider before implementing a limited two-tier licensing system for evaluation. The Service wants this work completed in time to implement the limited two-tier licensing system for the 2021–22 hunting season. Over the last two years, the Service has completed extensive work with our State partners reviewing hunting and fishing regulations on Refuge lands. Our commitment is for the Service to continue to explore opportunities to enhance the waterfowl hunting experience for the American public.

4. Canada Geese

On April 16, 2020, we published in the **Federal Register** (85 FR 21282) a revised List of Migratory Birds protected under the Migratory Bird Treaty Act (MBTA) by both adding and removing species. Reasons for the changes to the list included adding species based on revised taxonomy and new evidence of natural occurrence in the United States or U.S. territories, removing species no longer known to occur within the United States or U.S. territories, and changing names to conform to accepted use. This rule went into effect on May 18, 2020, which was between publication of the proposed frameworks (March 19, 2020) and these final frameworks for 2020–21 migratory bird hunting seasons. The revised List of Migratory Birds separated Canada goose into two separate species: Cackling goose (*Branta hutchinsii*) and Canada goose (*Branta canadensis*). However, the March 19, 2020, proposed frameworks specified hunting seasons for both of these species under Canada geese and the collective term dark geese. Thus, for administrative purposes, we clarify that in this final rule Canada geese includes both Canada geese and cackling geese. Because historically Canada goose season frameworks applied to both species of geese, the separation of these species in the List of Migratory Birds will not result in differential harvest effects on either species.

B. Regular Seasons

Council Recommendations: The Pacific Flyway Council recommended a framework closing date of January 31 in places where the closing date is currently the last Sunday in January.

Service Response: We agree with the Pacific Flyway Council's recommendation. The Canada goose season framework dates traditionally have coincided with the duck, coot, and merganser season framework dates except where there are exceptions for a later Canada goose season framework closing date. We earlier discussed under 1. Ducks, B. Regulatory Alternatives that last year we extended the duck, coot, and merganser season framework closing date from the last Sunday in January to January 31 across all four Flyways as directed by the John D. Dingell, Jr. Conservation, Management, and Recreation Act, signed into law on March 12, 2019 (Pub. L. 116–9). Therefore, we are supportive of adjusting the general Canada goose season framework closing date to again coincide with the duck, coot, and merganser season framework closing date, and expect this adjustment to have negligible impact to Canada goose population status.

6. Brant

Council Recommendations: The Atlantic Flyway Council recommended that the 2020–21 season for Atlantic brant follow the Atlantic Flyway Council's brant harvest strategy pending the results of the 2020 Atlantic Flyway Mid-winter Waterfowl Survey (MWS). The Council also recommended that if results of the 2020 MWS are not available, then results of the most recent MWS should be used.

The Pacific Flyway Council recommended a framework closing date of January 31 in places where the closing date is currently the last Sunday in January. The Council also recommended that the 2020–21 brant season frameworks be determined based on the harvest strategy in the Council's management plan for the Pacific population of brant pending results of the 2020 Winter Brant Survey (WBS). If results of the 2020 WBS are not available, results of the most recent WBS should be used.

Service Response: As we discussed in the March 28, 2016, **Federal Register** (81 FR 17302), the current harvest strategy used to determine the Atlantic brant season frameworks does not fit well within the new regulatory process, similar to the Rocky Mountain Population (RMP) of sandhill cranes issue discussed below under 9. Sandhill Cranes. In developing the annual proposed frameworks for Atlantic brant in the past, the Atlantic Flyway Council and the Service used the number of brant counted during the MWS in the Atlantic Flyway, and took into consideration the brant population's expected productivity that summer. The MWS is conducted each January, and expected brant productivity is based on early-summer observations of breeding habitat conditions and nesting effort in important brant nesting areas. Thus, the data under consideration were available

before the annual Flyway Council and SRC decision-making meetings in late July. Although the former regulatory alternatives for Atlantic brant were developed by factoring together long-term productivity rates (observed during November and December productivity surveys) with estimated observed harvest under different framework regulations, the primary decision-making criterion for selecting the annual frameworks was the MWS count.

Under the current regulatory schedule, neither the expected 2020 brant production information (available spring) nor the 2020 MWS count (available January) is yet available at the time proposed frameworks are developed. However, the MWS is typically completed and data are available by the expected publication of the final frameworks. Therefore, in the September 24, 2015, **Federal Register** (80 FR 57664), we adopted the Atlantic Flyway Council's revised Atlantic brant harvest strategy. The current harvest strategy for Atlantic brant is as follows:

- If the MWS count is <100,000 Atlantic brant, the season would be closed.
- If the MWS count is between 100,000 and 115,000 brant, States could select a 30-day season with a 1-bird daily bag limit.
- If the MWS count is between 115,000 and 130,000 brant, States could select a 30-day season with a 2-bird daily bag limit.
- If the MWS count is between 130,000 and 150,000 brant, States could select a 50-day season with a 2-bird daily bag limit.
- If the MWS count is between 150,000 and 200,000 brant, States could select a 60-day season with a 2-bird daily bag limit.
- If the MWS count is >200,000 brant, States could select a 60-day season with a 3-bird daily bag limit.

Under all the above open-season alternatives, seasons would be between the Saturday nearest September 24 and January 31. Further, States could split their seasons into two segments.

The 2020 MWS Atlantic brant count was 139,875 brant. Thus, utilizing the above Atlantic brant harvest strategy, the appropriate Atlantic brant hunting season for the 2020–21 season is a 50-day season with a 2-bird daily bag limit.

We agree with the Pacific Flyway Council's recommendation for a framework closing date of January 31 in places where the closing date is currently the last Sunday in January for brant in the Pacific Flyway. The brant season framework dates traditionally have coincided with the duck, coot, and merganser season framework dates except where there are earlier brant season framework closing date restrictions. We earlier discussed under 1. Ducks, B. Regulatory Alternatives that last year we extended the duck, coot, and merganser season framework closing date from the last Sunday in January to January 31 across all four Flyways as directed by the John D. Dingell, Jr. Conservation, Management, and Recreation Act, signed into law on March 12, 2019 (Pub. L. 116–9). Therefore, we are supportive of adjusting the general brant season framework closing date to again coincide with the duck, coot, and merganser season framework closing date, and expect this to have negligible impact to Pacific brant population status.

We also agree with the Pacific Flyway Council's recommendation that the 2020–21 Pacific brant season frameworks be determined by the harvest strategy in the Council's management plan for the Pacific population of brant pending results of the 2020 WBS. Similar to the case for Atlantic brant, the harvest strategy used to determine the Pacific brant season frameworks does not fit well within the current regulatory process. In developing the annual proposed frameworks for Pacific brant, the Pacific Flyway Council and the Service use the three-year average number of brant counted during the WBS in the Pacific Flyway to determine annual allowable season length and daily bag limits. The WBS is conducted each January, which is after the date that proposed frameworks are formulated in the regulatory process. However, the data are typically available by the expected publication of these final frameworks. When we acquire the current survey data, we select the appropriate frameworks for the 2020–21 Pacific brant season according to the harvest strategy in the Pacific Flyway Council's management plan for Pacific brant and publish the result in the final frameworks rule. The current harvest strategy for Pacific brant is as follows:

- If the WBS index is <102,000 brant, then the brant season is closed, and the season may not reopen until the 3-year average WBS index exceeds 112,000 brant.
- If the WBS index is between 102,000 and 122,000 brant, then Alaska may select a 51-day season with a 2-bird daily bag limit, and California, Oregon, and Washington may select a 16-day season with a 2-bird daily bag limit.
- If the WBS index is between 122,001 and 147,000 brant, then Alaska may select a 107-day season with a 2-bird daily bag limit, and California, Oregon, and Washington may select a 27-day season with a 2-brant daily bag limit.
- If the WBS index is greater than 147,000 brant, then Alaska may select a 107-day season with a 4-bird daily bag limit, and California, Oregon, and Washington may select a 37-day season with a 2-bird daily bag limit.

Under all the above open-season alternatives, the framework outside season dates are September 1 through January 26 in Alaska, Saturday closest to September 24 through December 15 in California and Oregon, and Saturday closest to September 24 through January 31 in Washington.

The recent 3-year average (2018–2020) WBS count of Pacific brant was 145,388. Using the above harvest strategy, the appropriate season length and daily bag limit framework for Pacific brant in the 2020–21 season is a 107-day season with a 2-bird daily bag limit in Alaska, and a 27-day season with a 2-bird daily bag limit in California, Oregon, and Washington.

8. Swans

We first approved a hunting season for the Eastern Population (EP) of tundra swans in the early 1980s, and gradually expanded opportunities to include the States of Montana, North Dakota, North Carolina, South Dakota, and Virginia by the late 1980s. Recently, we also allowed Delaware to initiate an experimental hunting season on these birds. Harvest of EP tundra swans is guided by a cooperative management plan, which specifies a population objective and harvest levels designed to maintain population abundance near that objective. In recent years, some Interior Population (IP) trumpeter swans have been present during fall and winter in States where EP tundra swan hunting is allowed. As a result of restoration efforts and natural population growth, the IP has grown from 43 adult and subadult birds in 1968 to over 27,000 in 2015. Given the growth and range expansion that has occurred in the IP, it is likely that migrating and wintering trumpeter swan numbers will increase in the Atlantic, Mississippi, and Central Flyways. Tundra and trumpeter swans are very similar in appearance, particularly at a distance. As the number and range of trumpeter swans continues to increase during fall and winter in States where tundra swan hunting is allowed, the risk of accidental harvest of trumpeter swans by hunters will increase. Thus, there is a need to address the potential for misidentification and accidental harvest of trumpeter swans that may occur during existing tundra swan seasons.

To address this issue, the Service reviewed information and drafted an EA to determine whether harvest of IP trumpeter swans during current EP tundra swan hunting seasons could be permitted while sustaining IP trumpeter swans at desired levels. The proposed action is to establish a regulatory framework for swan hunting that would govern the harvest of both trumpeter and tundra swans in portions of the Atlantic, Mississippi, and Central Flyways that currently have operational hunting seasons on EP tundra swans or may have them in the future. The framework would allow a limited take of trumpeter swans, but only during hunting seasons established to provide opportunities to hunt tundra swans. New hunting seasons (*i.e.,* seasons in areas that are currently closed to swan hunting) will not be approved unless the requesting State demonstrates that ≥90% of the swans in the proposed hunting area are tundra swans. Any season where take of both swan species is allowed would require data collection, which would ensure harvests of IP trumpeter swans remain within appropriate levels, and allow modification of the seasons if necessary. Importantly, no State that currently has a tundra swan season is required to change that season to a general swan season; the latter is only an option that is available to States if they want to implement such a season. A copy of the Final EA—including background information on the swan species impacted, levels of take of IP trumpeter swans that would be allowed, and specifics of the five alternatives we analyzed—and finding of no significant impact can be found at either *http://www.regulations.gov* or on our website at *https://www.fws.gov/birds/index.php.*

Council Recommendations: The Atlantic and Central Flyway Councils recommended that the total number of hunting permits for EP tundra swans be reduced from 12,000 to 9,600, with 5,600 permits allowed in the Atlantic Flyway and 4,000 permits allowed in the Central Flyway. The Pacific Flyway Council recommended that the Pacific Flyway swan season framework allow the season to be split into two segments and allow a season in northern Idaho with the following parameters:

(1) Hunting area may include the four most northwestern counties (Benewah, Bonner, Boundary, and Kootenai);

(2) Not more than 50 hunting permits may be issued;

(3) Only 1 permit may be issued per hunter; and

(4) All hunters that harvest a swan must complete and submit a harvest report with the bill measurement and color information from the harvested swan within 72 hours of harvest for species determination.

Written Comments: We received many (335) comments on the proposed framework for a general swan season in the eastern three flyways. Some (239) commenters opposed the proposal entirely; some (94) commenters, including one non-government organization, only opposed including Minnesota or the Mississippi Flyway in the swan season framework; while two commenters were supportive of the entire proposal. Central themes among commenters opposed to all or part of the proposal were opposition to allowing any harvest of trumpeter swans, lack of demand for swan hunting in the Mississippi Flyway, and probable harvest of trumpeter swans in areas or portions of the year when these birds outnumber tundra swans. Several (9) of these commenters further suggested that harvested trumpeter swans be confiscated, but that hunters not be ticketed or fined.

We received few (3) comments on the proposed framework for a general swan season in Idaho. Two commenters supported the proposal, including the State of Idaho, while one commenter was opposed. One commenter further suggested the use of check stations over bill-measurement cards for swan species identification.

Service Response: We agree with the Atlantic and Central Flyway Councils' recommendations that the total number of hunting permits be reduced from 12,000 to 9,600, with 5,600 permits allowed in the Atlantic Flyway and 4,000 permits allowed in the Central Flyway. The recommendations are consistent with reductions called for in the Atlantic, Central, Mississippi, and Pacific Flyway Councils' management plan for EP tundra swans. The count of tundra swans from the 2019 Midwinter Waterfowl Survey in the Atlantic and Mississippi Flyways combined resulted in 92,819 birds. The average count for the last three years was 107,907, which is below the 110,000-bird threshold needed to support 12,000 permits as specified in the Councils' management plan for EP tundra swans.

We also agree with the Pacific Flyway Council's recommendation that the Pacific Flyway swan season framework allow the season to be split into two segments. This is a minor adjustment to realign the swan season framework in the Pacific Flyway with changes to the duck, coot, merganser, and goose season frameworks that have occurred since 1995 when the Pacific Flyway swan season framework was established. This adjustment will allow States to simplify their waterfowl seasons by having season dates for ducks, coots, mergansers, geese, and swans coincide. Swan hunting will continue to be regulated primarily by the number of swan hunting permits a State may issue each year, which is unchanged. Allowing a split in the season is expected to have negligible impact to tundra and trumpeter swan populations in the Pacific Flyway.

We also agree with the Pacific Flyway Council's recommendation to allow limited take of swans in northern Idaho during the fall-winter general hunting season for migratory birds. This change effectively expands the operational swan hunting season framework in the Pacific Flyway that includes parts of Montana, Nevada, and Utah to also include the four northwestern-most counties in Idaho (Benewah, Bonner, Boundary, and Kootenai). The purpose is to provide additional hunting opportunity in Idaho for swans that have met population goals.

The Service authorized an experimental general swan hunting season (hereafter swan season) within the Pacific Flyway south of Alaska (parts of Montana, Utah, and Nevada) in 1995, which became operational in 2003. The Service addressed impacts of the swan season in a sequence of NEPA environmental assessments and findings of no significant impact (1995, 2000, 2001, 2003). Idaho did not express interest in a swan season at that time.

The proposed swan season in Idaho is consistent with: (1) Earlier NEPA documents establishing the swan season in the Pacific Flyway as operational, (2) applicable hunting regulations in title 50 of the Code of Federal Regulations, part 20, and (3) the Council management plans for tundra and trumpeter swans. The proposed swan season framework in Idaho would be experimental for a period of at least three years where no framework changes could occur unless restrictions were necessary. After that period, the framework could become operational upon approval by the Council and Service.

Both the Western Population (WP) of tundra swans and Rocky Mountain Population (RMP) of trumpeter swans are subjected to harvest during the swan hunting season in the Pacific Flyway. Regarding WP tundra swans, the recent 3-year (2017–2019) mean abundance index was 127,556 (95% CI = 83,027–172,086) swans, which exceeded the Pacific Flyway Council's population objective of 60,000 swans. Regarding RMP trumpeter swans, the recent (2015) count was 11,271 white trumpeter swans (*i.e.,* adult and subadult birds),

which exceeded the Pacific Flyway Council's population objective of 10,000 white swans. The Council also has an objective for the U.S. breeding segment of RMP trumpeter swans. The recent (2018) minimum count was 810 white swans, which exceeded the Council's population objective of 718 white swans. The recent 3-year (2016–2018) average count was 774 white swans.

The experimental swan season in Idaho will be limited to ≤50 permits per year and is expected to result in a small increase in total Pacific Flyway swan harvest (≤23 WP tundra swans and <1 RMP trumpeter swan per year on average), but have negligible impact to habitat and overall tundra and trumpeter swan population status. The experimental season is expected to have positive impacts on the socioeconomic environment in localized areas where swans occur and are hunted, and is not expected to have any significant impacts on other wildlife species and their habitats, including endangered and threatened species.

We prepared an EA on the proposed swan season in northern Idaho. A copy of the EA and specifics of the two alternatives we analyzed and finding of no significant impact can be found at either *http://www.regulations.gov* or on our website at *https://www.fws.gov/birds/index.php.*

Regarding written comments opposed to a general swan season in the eastern three flyways, the position of the Service is to provide hunting opportunities on game birds where such hunting is compatible with sustainability of the game bird resource and consistent with management objectives. Trumpeter swans are classified as game birds under the Migratory Birds Convention (Treaty) between the United States and Great Britain (for Canada) that was enacted by the Migratory Bird Treaty Act in the United States. The Interior Population of trumpeter swans, the group which is the subject of this proposal, has been increasing at an average rate of about 14% per year since 1968, the result of reintroduction efforts and natural reproduction, and in 2015 numbered about 27,000 white birds (excludes cygnets). The geographic range of these birds also is expanding within the eastern three flyways as birds pioneer new areas and reestablish migration routes. Because some of those areas include locations where tundra swan hunting has been allowed, the likelihood of hunters encountering trumpeter swans during those hunts is increasing, which also increases the possibility that they may shoot a trumpeter swan. Similar to circumstances in the Pacific Flyway where the take of trumpeter and tundra swans is allowed in some areas, the Service believes allowing a limited take of trumpeter swans, primarily to eliminate the liability of hunters who mistakenly shoot a trumpeter swan, is appropriate. The Service believes this decision will continue to allow trumpeter swans to increase their abundance and range while not imposing an unnecessary burden on hunters to unerringly identify the species of swan while hunting. The harvest of IP trumpeter swans is expected to be low and would not jeopardize the sustainability of the population based on the biological assessment we have conducted. Further, the harvest information and other aspects of a general swan season framework are reviewed by the Service annually. If the information suggests harvest is higher than deemed appropriate and could jeopardize the status of the population, the Service could revise the framework or close the season in any year.

The Service manages migratory birds at the population level when information is sufficient to do so. The range of IP trumpeter swans spans portions of the Central, Mississippi, and Atlantic Flyways; thus, that is the geographic scale appropriate for their management. Therefore, the assessment and allowable take described in the proposed rule (85 FR 15870; March 19, 2020) and referenced EA spans all three flyways, and we believe any alternative proposed by the Service should include all three flyways (*i.e.,* should not exclude Minnesota or the Mississippi Flyway). However, the establishment of this framework by the Service does not mean that a general swan season must be implemented in any flyway or State. The framework provides only that a biological assessment indicates such seasons could be supported in those flyways without negatively impacting the sustainability of IP trumpeter swans. Each Flyway Council and State has their own process to determine whether they would allow a general swan season. Those jurisdictions will seek input from their stakeholders, including the non-hunting public, when determining if they would recommend implementing such a season. Therefore, whether any or all of the flyways or any State decides to have general swan seasons is a matter for each Flyway Council and State to determine after they consider input from their constituency. The Service will consider allowing general swan seasons, along with any restrictions they desire, only if they are supported by the Flyway Councils. Currently, there are not existing or proposed swan hunting seasons in any State in the Mississippi Flyway (including Minnesota).

General swan seasons would be allowed only in existing tundra swan hunting areas that have few trumpeter swans, as was specified in the EA. New general swan seasons would be allowed only in areas where tundra swans compose 90 percent or more of the swans in the hunt area during the general swan season. This restriction for swan seasons is intended to simultaneously minimize the probable harvest of trumpeter swans in swan hunting areas and address the potential for misidentification and accidental harvest of trumpeter swans that may occur during tundra swan seasons. Therefore, trumpeter swans should not be shot in greater numbers than tundra swans anywhere in their range under this regulation.

In response to commenters that suggested harvest of trumpeter swans not be illegal, but that trumpeter swans shot by hunters be confiscated, the proposed regulation would lawfully allow the take of a trumpeter swan during the general swan season. Because they could be lawfully taken, law enforcement could not issue a citation for unlawful take. Since there would be no citation, the bird could not be legally confiscated.

Regarding the written comment on use of hunter check stations in Idaho, we conclude it is prudent to monitor the take of birds during hunting seasons, particularly under newly established seasons. The swan hunting season framework in the Pacific Flyway requires each State to evaluate hunter participation, harvest, and hunter compliance. We require States (*i.e.,* Utah and Nevada) to use check stations for swan species identification where we are particularly concerned about take of trumpeter swans, but otherwise allow use of bill-measurement cards (*i.e.,* Montana). We acknowledge the potential for inaccuracy when filling out bill-measurement cards and that the reliability of those measurements may not be as high as we would desire. However, we also recognize that requiring hunters to take their harvested swans to a check station to have them measured, and for the State to operate or otherwise support check stations in a sufficient number of geographic locations to be relatively convenient to hunters, may be costly and time consuming, particularly relative to the few swans that may be harvested in Idaho. The Service encourages States to provide directions on bill-measurement cards to minimize the likelihood that a

swan bill would be measured inaccurately. As provided above and in the EA, the Idaho swan season is expected to result in a harvest of ≤23 WP tundra swans and <1 RMP trumpeter swan on average per year. Furthermore, the trumpeter swans are expected to be from the RMP Canada breeding population segment, whose population status is of less concern than that for the RMP U.S. breeding population segment.

9. Sandhill Cranes

Council Recommendations: The Central Flyway Council recommended that Kansas be allowed to have two hunting zones. The Central and Pacific Flyway Councils recommended that the status of the season in Estancia Valley, New Mexico, be changed from experimental to operational, and that allowable harvest of RMP cranes be determined based on the formula described in the Pacific and Central Flyway Management Plan for RMP cranes.

Service Response: We agree with the Central Flyway Council's recommendations that Kansas be allowed to have two hunting zones. In 2004, two to three whooping cranes were shot just prior to the opening of the sandhill crane hunting season in Kansas. As a result, Kansas has been required to open their sandhill crane season later than they had historically to assist in protecting whooping cranes. However, because significant numbers of sandhill cranes migrate through Kansas prior to the opening date, harvest opportunity has been lost. The hunting area in Kansas includes the western two-thirds of the State, but whooping cranes primarily migrate through only the eastern part of the hunting area. Allowing Kansas to divide their hunting area into two zones would allow an earlier opening date in the western part of the hunting area and improve hunting opportunity, while maintaining the current opening date in the eastern part of the hunting area would continue to protect whooping cranes. Extensive information on whooping crane sightings was used in determining the placement of the boundary between the central and western hunting zones, and the Service believes the boundary and different zone-specific season opening dates provide sufficient protection to whooping cranes.

We also agree with the recommendations of the Central and Pacific Flyway Councils to change the status of the season in Estancia Valley, New Mexico, from experimental to operational. The season is consistent with the requirements in the Central and Pacific Flyway Councils' RMP crane management plan. The experimental season required monitoring the level and racial composition of the harvest and to assign greater sandhill cranes harvested during this season to the RMP cranes quota. From 2001 to 2019, harvest in the Estancia Valley season was monitored via mandatory hunter check stations. In recent years, approximately one to two percent of the crane harvest comprised greater sandhill cranes (1–2 birds out of a harvest of approximately 100 birds in the Estancia Valley). New Mexico will continue to monitor the level and racial composition of the harvest in the Estancia Valley season using bill-measurement cards and assign greater cranes harvested to the RMP crane quota.

Finally, we also agree with the Central and Pacific Flyway Councils' recommendations to determine allowable harvest of RMP cranes using the formula in the Pacific and Central Flyway Councils' management plan for RMP cranes pending results of the fall 2019 abundance and recruitment surveys. As we discussed in the March 28, 2016, **Federal Register** (81 FR 17302), the harvest strategy used to calculate the allowable harvest of RMP cranes does not fit well within the current regulatory process. In developing the annual proposed frameworks for RMP cranes, the Flyway Councils and the Service use the fall abundance and recruitment surveys of RMP cranes to determine annual allowable harvest. Results of the fall abundance and recruitment surveys of RMP cranes are released between December 1 and January 31 each year, which is after the date proposed frameworks are developed. However, the data are typically available by the expected publication of final frameworks. When we acquire the survey data, we determine the appropriate allowable harvest for the RMP crane season according to the harvest strategy in the Central and Pacific Flyway Councils' management plan for RMP cranes published in the March 28, 2016, **Federal Register** (81 FR 17302) and publish the results in the final frameworks rule.

The 2019 fall RMP crane abundance estimate was 21,290 cranes, resulting in a 3-year (2017–19) average of 20,894 cranes, similar to the previous 3-year average, which was 21,219 cranes. The RMP crane recruitment estimate was 8.92 percent young in the fall population, resulting in a 3-year (2017–19) average of 8.25 percent, which is similar to the previous 3-year average of 8.22 percent. Using the current harvest strategy and the above most recent 3-year average abundance and recruitment estimates, the allowable harvest for the 2020–21 season is 1,536 cranes.

11. Moorhens and Gallinules

Similar to the situation for cackling geese discussed under 4. Canada Geese above, on April 16, 2020, we published in the **Federal Register** (85 FR 21282) a revised List of Migratory Birds protected under the Migratory Bird Treaty Act (MBTA) by both adding and removing species. Reasons for the changes to the list included adding species based on revised taxonomy and new evidence of natural occurrence in the United States or U.S. territories, removing species no longer known to occur within the United States or U.S. territories, and changing names to conform to accepted use. This rule went into effect on May 18, 2020, which was between the publication dates of the proposed frameworks (March 19, 2020) and these final frameworks for 2020–21 migratory bird hunting seasons. The revised List of Migratory Birds added the common gallinule (*Gallinula galeata*), which previously was considered conspecific with the common moorhen (*Gallinula chloropus*). However, the March 19, 2020, proposed frameworks specified hunting seasons for common moorhens. Because this change in the List of Migratory Birds represents only a change in the name of a species for which hunting was allowed, and because the change was made after the proposed frameworks were published, in this final rule and for the 2020–21 season, the regulations for common gallinules will be specified under the regulations for common moorhens and purple gallinules.

Council Recommendations: The Atlantic, Mississippi, and Central Flyway Councils recommended a framework closing date of January 31 for moorhens and gallinules in the Atlantic, Mississippi, and Central Flyways.

Service Response: We agree with the recommendations of the Atlantic, Mississippi, and Central Flyway Councils for a framework closing date of January 31 rather than the last Sunday in January for moorhens and gallinules in the Atlantic, Mississippi, and Central Flyways. The moorhens and gallinules season framework closing date traditionally has coincided with the duck, coot, and merganser season framework closing date. We earlier discussed under 1. Ducks, B. Regulatory Alternatives that last year we extended the duck, coot, and merganser season framework closing date from the last Sunday in January to January 31 across

all four Flyways as directed by the John D. Dingell, Jr. Conservation, Management, and Recreation Act, signed into law on March 12, 2019 (Pub. L. 116–9). Therefore, we are supportive of adjusting the moorhens and gallinules season framework closing date to again coincide with the duck, coot, and merganser season framework closing date, and expect this change to have negligible impacts to moorhen and gallinule population status.

12. Rails

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended a framework closing date of January 31 for rails in the Atlantic, Mississippi, Central, and Pacific Flyways.

Service Response: We agree with the recommendations of the Atlantic, Mississippi, Central, and Pacific Flyway Councils for a framework closing date of January 31 rather than the last Sunday in January for rails in the Atlantic, Mississippi, Central, and Pacific Flyways. The rail season framework closing date traditionally has coincided with the duck, coot, and merganser season framework closing date. We earlier discussed under 1. Ducks, B. Regulatory Alternatives that last year we extended the duck, coot, and merganser season framework closing date from the last Sunday in January to January 31 across all four Flyways as directed by the John D. Dingell, Jr. Conservation, Management, and Recreation Act, signed into law on March 12, 2019 (Pub. L. 116–9). Therefore, we are supportive of adjusting the rail season framework closing date to again coincide with the duck, coot, and merganser season framework closing date, and expect this change to have negligible impact to rail population status.

14. Woodcock

Council Recommendations: The Atlantic, Mississippi, and Central Flyway Councils recommended use of the ''moderate'' season framework for the 2020–21 season.

Service Response: In 2011, we implemented a harvest strategy for woodcock (76 FR 19876, April 8, 2011). The harvest strategy provides a transparent framework for making regulatory decisions for woodcock season length and bag limits while we work to improve monitoring and assessment protocols for this species. Utilizing the criteria developed for the strategy, the three-year average for the Singing Ground Survey indices and associated confidence intervals fall within the ''moderate package'' for both the Eastern and Central Management Regions. As such, a ''moderate season'' for both management regions for the 2020–21 season is appropriate.

16. Doves

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended adoption of the standard regulatory alternative, which consists of a 90-day season and 15-bird daily bag limit for States within the Eastern Management Unit. The daily bag limit could be composed of mourning doves and white-winged doves, singly or in combination.

The Mississippi and Central Flyway Councils recommended adoption of the standard regulatory alternative, which consists of a 90-day season and 15-bird daily bag limit for States within the Central Management Unit.

The Pacific Flyway Council recommended adoption of the standard regulatory alternative, which consists of a 60-day season and 15-bird daily bag limit for States in the Western Management Unit (WMU). The Council also recommended allowing States in the WMU to select seasons in one or two zones with up to two segments per zone.

Service Response: Based on the harvest strategies and current population status, we agree with the recommended selection of the standard season frameworks for doves in the Eastern, Central, and Western Management Units for the 2020–21 season.

We also agree with the Pacific Flyway Council's recommendation to allow States in the WMU to select seasons in one or two zones with up to two segments per zone.

In 2004, we recognized the need to work with the States to review our current policy regarding zoning for dove hunting (69 FR 52970; August 30, 2004). We asked the Flyway Councils and Mourning Dove Management Unit Technical Committees to review the current policies regarding the use of zones and split seasons for dove hunting, with a view toward establishing guidelines for the use of these harvest-management tools, as has been done for ducks. Items considered included the number of zone and split-season configurations among which each State may choose, the frequency with which each State may change their configuration selection, and the need for a restricted framework opening date in south zones. In 2006, we adopted a set of guidelines for dove zones and split seasons applicable in the Eastern and Central Mourning Dove Management Units based on recommendations of the Atlantic, Mississippi, and Central Flyway Councils for use beginning in the 2007–08 season and conforming to those fixed five-year periods used for ducks, *e.g.,* 2006–10 (71 FR 51406; August 29, 2006). These guidelines were not extended to the WMU at the time because they were not endorsed by the Pacific Flyway Council and no dove zones occurred in the WMU. Furthermore, the framework season length in the WMU was 30 consecutive days, except in Arizona and California where the season length was 60 days, and could be split into two segments.

The season length in the WMU was expanded to 60 days beginning with the 2014 hunting season. The Pacific Flyway Council is now requesting the same flexibility for zones and split seasons we have afforded to other MUs, with the exception that the WMU would be allowed only two season segments in one or both zones rather than three. Thus, we are supportive of extending the guidelines for dove zones and split seasons to the WMU, with the exception that seasons may be split into no more than two segments. Any State's zone and split-season configuration also must conform to those fixed five-year periods used for duck and dove guidelines for zones and split seasons, *e.g.,* 2021–25. Dove harvest may increase slightly in those States where zones are established, particularly late in the season, but any additional harvest is expected to have negligible impact to dove population status. Finally, we will extend the deadline for States to select their zone and split-season configurations and to define potential new zone boundaries for the 2021–25 seasons to July 1, 2020, but we encourage States to submit their selections and zone boundaries as soon as possible (see C. Zones and Split Seasons, above).

For the 2021–25 seasons, the guidelines for dove zones and split seasons are as follows:

Guidelines for Dove Zones and Split Seasons

(1) A zone is a geographic area or portion of a State, with a contiguous boundary, for which independent seasons may be selected for dove hunting.

(2) Each State may select a zone and split-season configuration during an open season. The configuration must remain in place for the following five years except that each State may make a one-time change and revert to their previous zone and split-season configuration in any year of the five-year period. Formal approval will not be required, but the State must notify the Service before making the change.

(3) Zoning periods for dove hunting will conform to those years used for ducks, *e.g.,* 2021–25.

(4) The zone and split-season configuration consists of two zones with the option for three-segment seasons in one or both zones, except in the WMU where the season in one or both zones may be split into two segments. As a grandfathered arrangement, Texas will have three zones with the option for two-segment seasons in one, two, or all three zones.

(5) States that do not wish to zone for dove hunting may split their seasons into three segments.

For the 2021–25 period, any State may continue the configuration used in 2016–20. If changes are made, the zone and split-season configuration must conform to one of the configurations listed above. If Texas uses a new configuration for the entirety of the five-year period, it cannot go back to the grandfathered arrangement that it previously had in place.

17. Alaska

Council Recommendations: The Pacific Flyway Council recommended reducing the emperor goose total allowable harvest in Alaska from 1,000 to 500 geese.

Service Response: We agree with the Pacific Flyway Council's recommendation. The Pacific Flyway Council revised their management plan for emperor geese in 2016. The management plan includes emperor goose population objectives, commitments to monitor population status, and a harvest strategy. The fall-winter harvest of emperor geese in Alaska was resumed as a registration permit hunt in 2017 after more than 30 years of closed seasons. The Council's harvest strategy is based on emperor goose abundance during spring on the Yukon-Kuskokwim Delta Coastal Zone and thresholds for prescribed regulatory alternatives. The harvest strategy specifies an open hunting season with an annual allowable harvest of 1,000 emperor geese if the spring abundance index is greater than 23,000 geese; but when the spring abundance index is between 23,000 and 28,000 geese, restrictions will be considered, specifically reducing the allowable harvest from 1,000 to 500 birds. The 2019 emperor goose spring abundance index was 26,585 (95% CI = 24,161–29,008), which is below the Pacific Flyway Council's population objective of 34,000 geese. The abundance index was also below the 28,000-bird threshold, which triggers consideration of reducing the allowable harvest quota from 1,000 to 500 birds for the 2020–21 season.

19. Puerto Rico

Council Recommendations: The Atlantic Flyway Council recommended increasing the daily bag limit from 20 to 30 doves in the aggregate in Puerto Rico beginning with the 2020–21 season. The daily bag may not exceed 3 mourning doves and 10 Zenaida doves, as in the current regulation, but may be as high as 30 white-winged doves per hunter daily.

Service Response: We agree with the Atlantic Flyway Council's recommendation. White-winged dove abundance is estimated to be approximately 1.04 million birds in Puerto Rico, which is above the target population of 0.5–0.7 million birds. The increase in the white-winged dove daily bag limit from 20 to 30 birds is expected to increase their harvest rate by 8 percent from 36.7 to 44.7 percent and reduce total population size of white-winged doves in Puerto Rico to 0.95 million birds, which is above the target population of 0.5–0.7 million birds. Retaining the daily bag limit restrictions on mourning and Zenaida doves will result in this regulation change having a negligible impact on those species.

Required Determinations

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This action is not subject to the requirements of Executive Order (E.O.) 13771 (82 FR 9339, February 3, 2017) because it establishes annual harvest limits related to routine hunting or fishing.

National Environmental Policy Act (NEPA) Consideration

The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting frameworks through the annual preparation of separate environmental assessments, the most recent being ''Duck Hunting Regulations for 2020–21,'' with its corresponding June 2020 finding of no significant impact. The programmatic document, as well as the separate environmental assessment, is available on our website at *https://www.fws.gov/birds/index.php,* or from the address indicated under the caption **ADDRESSES**.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that the Secretary shall insure that any action authorized, funded, or carried out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat. After we published the October 15, 2019, proposed rule, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. The biological opinion resulting from this section 7 consultation is available for public inspection at the address indicated under **ADDRESSES**.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has reviewed this rule and has determined that this rule is significant because it will have an annual effect of $100 million or more on the economy.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

An economic analysis was prepared for the 2020–21 season. This analysis

was based on data from the 2016 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (National Survey), the most recent year for which data are available (see discussion under Regulatory Flexibility Act, below). This analysis estimated consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives are (1) issue restrictive regulations allowing fewer days than those issued during the 2019–20 season, (2) issue moderate regulations allowing more days than those in alternative 1, and (3) issue liberal regulations similar to the regulations in the 2019–20 season. For the 2020–21 season, we chose Alternative 3, with an estimated consumer surplus across all flyways of $263–$347 million with a mid-point estimate of $305 million. We also chose alternative 3 for the 2009–10 through 2019–20 seasons. The 2020–21 analysis is part of the record for this rule and is available at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2019–0004.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990 through 1995. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, 2008, 2013, 2018, and 2019. The primary source of information about hunter expenditures for migratory game bird hunting is the National Survey, which is generally conducted at 5-year intervals. The 2020 Analysis is based on the 2016 National Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $2.1 billion at small businesses in 2020. Copies of the analysis are available upon request from the Division of Migratory Bird Management (see **ADDRESSES**) or from *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2019–0004.

Small Business Regulatory Enforcement Fairness Act

This final rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule will have an annual effect on the economy of $100 million or more. However, because this rule establishes frameworks for hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

This rule does not contain any new collection of information that requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). OMB has previously approved the information collection requirements associated with migratory bird surveys and the procedures for establishing annual migratory bird hunting seasons under the following OMB control numbers:

- 1018–0019, ''North American Woodcock Singing Ground Survey'' (expires 06/30/2021).
- 1018–0023, ''Migratory Bird Surveys, 50 CFR 20.20'' (expires 04/30/2023). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.
- 1018–0171, ''Establishment of Annual Migratory Bird Hunting Seasons, 50 CFR part 20'' (expires 06/30/2021).

You may view the information collection request(s) at *http://www.reginfo.gov/public/do/PRAMain.* An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Takings Implication Assessment

In accordance with E.O. 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule will allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under E.O. 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are *de minimis* effects on Indian trust resources. We solicited proposals for special migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2020–21 migratory bird hunting season in the October 15, 2019, proposed rule (84 FR 55120). The resulting proposals were contained in a separate April 2, 2020, proposed rule (85 FR 18532) and will be finalized in a rule in August 2020. Through this process to establish annual hunting regulations, we regularly coordinate with tribes that would be affected by this rule.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with

the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with E.O. 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Regulations Promulgation

The rulemaking process for migratory game bird hunting, by its nature, operates under a time constraint as seasons must be established each year or hunting seasons remain closed. However, we intend that the public be provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements. Thus, when the preliminary proposed rulemaking was published, we established what we concluded were the longest periods possible for public comment and the most opportunities for public involvement. We also provided notification of our participation in multiple Flyway Council meetings, opportunities for additional public review and comment on all Flyway Council proposals for regulatory change, and opportunities for additional public review during the SRC meeting. Therefore, sufficient public notice and opportunity for involvement have been given to affected persons regarding the migratory bird hunting frameworks for the 2020–21 hunting season. Further, after establishment of the final frameworks, States need sufficient time to conduct their own public processes to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. Thus, if there were a delay in the effective date of these regulations after this final rulemaking, States might not be able to meet their own administrative needs and requirements.

For the reasons cited above, we find that ‘‘good cause’’ exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will take effect immediately upon publication.

Therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711), we prescribe final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials will select hunting season dates and other options. Upon receipt of season selections from these officials, we will publish a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the United States for the 2020–21 seasons. The rules that eventually will be promulgated for the 2020–21 hunting season are authorized under 16 U.S.C. 703–712 and 742 a–j.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

John Tanner,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

Final Regulations Frameworks for 2020–21 Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior approved the following frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting migratory game birds between the dates of September 1, 2020, and March 10, 2021. These frameworks are summarized below.

General

Dates: All outside dates specified below are inclusive.

Season Lengths: All season lengths specified below are the maximum allowed.

Season segments: All season segments specified below are the maximum allowed.

Zones: Unless otherwise specified, States may select hunting seasons by zone. Zones for duck seasons (and associated youth and veterans—active military waterfowl hunting days, moorhen and gallinule seasons, and snipe seasons) and dove seasons may be selected only in years we declare such changes can be made (*i.e.,* open seasons for zones and splits) and according to federally established guidelines for duck and dove zones and split seasons. Areas open to hunting must be described, delineated, and designated as such in each State's hunting regulations and published in the **Federal Register** as a Federal migratory bird hunting frameworks final rule.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are three times the daily bag limit.

Permits: For some species of migratory birds, the Service authorizes the use of permits to regulate harvest or monitor their take by hunters, or both. In such cases, the Service determines the amount of harvest that may be taken during hunting seasons during its formal regulations-setting process, and the States then issue permits to hunters at levels predicted to result in the amount of take authorized by the Service. Thus, although issued by States, the permits would not be valid unless the Service approved such take in its regulations.

These federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take migratory birds at levels specified in the permit, in accordance with provisions of both Federal and State regulations governing the hunting season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not transferrable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

Flyways and Management Units

We set migratory bird hunting frameworks for the conterminous U.S. States by Flyway or Management Unit/Region. Frameworks for Alaska, Hawaii, Puerto Rico, and the Virgin Islands are contained in separate sections near the end of the frameworks portion of this document. The States included in the Flyways and Management Units/Regions are described below.

Waterfowl Flyways

Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway: Includes Colorado (east of the Continental Divide), Kansas,

Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway: Includes Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Mallard Management Units

High Plains Management Unit: Roughly defined as that portion of the Central Flyway that lies west of the 100th meridian. See Area, Unit, and Zone Descriptions, *Ducks (Including Mergansers) and Coots,* below, for specific boundaries in each State.

Columbia Basin Management Unit: In Washington, all areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County; and in Oregon, the counties of Gilliam, Morrow, and Umatilla.

Mourning Dove Management Units

Eastern Management Unit: All States east of the Mississippi River, and Louisiana.

Central Management Unit: Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Woodcock Management Regions

Eastern Management Region: Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region: Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Definitions

For the purpose of the hunting regulations listed below, the collective terms ''Canada,'' ''dark'' and ''light'' geese include the following species:

Canada geese: Canada geese and cackling geese.

Dark geese: Canada geese, white-fronted geese, brant (except in Alaska, California, Oregon, Washington, and the Atlantic Flyway), and all other goose species except light geese.

Light geese: Snow (including blue) geese and Ross's geese.

Area, Zone, and Unit Descriptions: Geographic descriptions related to regulations are contained in a later portion of this document.

Migratory Game Bird Seasons in the Atlantic Flyway

In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, and Pennsylvania, where Sunday hunting of migratory birds is prohibited Statewide by State law or regulation, all Sundays are closed to the take of all migratory game birds.

Special Youth and Veterans—Active Military Personnel Waterfowl Hunting Days

Outside Dates: States may select 2 days per duck-hunting zone, designated as ''Youth Waterfowl Hunting Days,'' and 2 days per duck-hunting zone, designated as ''Veterans and Active Military Personnel Waterfowl Hunting Days,'' in addition to their regular duck seasons.

The days may be held concurrently. The Youth Waterfowl Hunting Days must be held outside any regular duck season on weekends, holidays, or other non-school days when youth hunters would have the maximum opportunity to participate. Both sets of days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limits may include ducks, geese, swans, mergansers, coots, moorhens, and gallinules. The daily bag limits are the same as those allowed in the regular season frameworks except in States that are allowed a daily bag limit of 1 or 2 scaup during different portions of the season, in which case the bag limit is 2 scaup per day. Flyway species and area restrictions would remain in effect.

Shooting Hours: One-half hour before sunrise to sunset.

Participation Restrictions for Youth Waterfowl Hunting Days: States may use their established definition of age for youth hunters. However, youth hunters must be under the age of 18. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult may not duck hunt but may participate in other seasons that are open on the special youth day. Youth hunters 16 years of age and older must possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp). Swans may be taken only by participants possessing applicable swan permits.

Participation Restrictions for Veterans and Active Military Personnel Waterfowl Hunting Days: Veterans (as defined in section 101 of title 38, United States Code) and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than for training), may participate. All hunters must possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp). Swans may be taken only by participants possessing applicable swan permits.

Special September Teal Season

Outside Dates: Between September 1 and September 30, an open season on all species of teal may be selected by the following States in areas delineated by State regulations:

Atlantic Flyway: Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia.

Mississippi Flyway: Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway: Colorado (part), Kansas, Nebraska, New Mexico (part), Oklahoma, and Texas.

Hunting Seasons and Daily Bag Limits: Not to exceed 16 consecutive days in the Atlantic, Mississippi, and Central Flyways. The daily bag limit is 6 teal.

Shooting Hours

Atlantic Flyway: One-half hour before sunrise to sunset, except in South Carolina, where the hours are from sunrise to sunset.

Mississippi and Central Flyways: One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin, where the hours are from sunrise to sunset.

Special September Duck Seasons

Florida, Kentucky, and Tennessee: In lieu of a special September teal season, a 5-consecutive-day teal/wood duck season may be selected in September. The daily bag limit may not exceed 6 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks. In addition, a 4-consecutive-day teal-only season may be selected in September either immediately before or immediately after the 5-consecutive-day teal/wood duck season. The daily bag limit is 6 teal.

Waterfowl

Atlantic Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 26) and January 31.

Hunting Seasons and Duck Limits: 60 days. The daily bag limit is 6 ducks, including no more than 2 mallards (no more than 1 of which can be female), 2 black ducks, 1 pintail, 1 mottled duck, 1 fulvous whistling duck, 3 wood ducks, 2 redheads, 2 canvasbacks, 4 scoters, 4 eiders, and 4 long-tailed ducks. For scaup, the daily bag limit may be 2 for up to 20 consecutive days and 1 for the remainder of the season; these days may be split according to applicable duck hunting zone and split-season configurations approved for each State.

Closures: The season on harlequin ducks is closed.

Merganser Limits: The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Lake Champlain Zone, New York: The waterfowl seasons, limits, and shooting hours should be the same as those selected for the Lake Champlain Zone of Vermont.

Connecticut River Zone, Vermont: The waterfowl seasons, limits, and shooting hours should be the same as those selected for the Inland Zone of New Hampshire.

Zoning and Split Seasons: Delaware, Florida, Georgia, Maryland, North Carolina, Rhode Island, South Carolina, Virginia, and West Virginia may split their seasons into 3 segments. Connecticut may select seasons in each of 2 zones; Maine, Massachusetts, New Hampshire, New Jersey, and Vermont may select seasons in each of 3 zones; Pennsylvania may select seasons in each of 4 zones; and New York may select seasons in each of 5 zones; and all these States may split their season in each zone into 2 segments.

Scoters, Eiders, and Long-tailed Ducks

Special Sea Duck Seasons

Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia may select a Special Sea Duck Season in designated Special Sea Duck Areas. If a Special Sea Duck Season is selected, scoters, eiders, and long-tailed ducks may be taken in the designated Special Sea Duck Area(s) only during the Special Sea Duck Season dates; scoters, eiders, and long-tailed ducks may be taken outside of Special Sea Duck Area(s) during the regular duck season, in accordance with the frameworks for ducks, mergansers, and coots specified above.

Outside Dates: Between September 15 and January 31.

Special Sea Duck Seasons and Daily Bag Limits: 60 consecutive days, or 60 days that are concurrent with the regular duck season, with a daily bag limit of 5, of the listed sea duck species, including no more than 4 scoters, 4 eiders, and 4 long-tailed ducks. Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters, 4 eiders, and 4 long-tailed ducks) and possession limits.

Special Sea Duck Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in New Jersey, all coastal waters seaward from the International Regulations for Preventing Collisions at Sea (COLREGS) Demarcation Lines shown on National Oceanic and Atmospheric Administration (NOAA) Nautical Charts and further described in 33 CFR 80.165, 80.501, 80.502, and 80.503; in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in South Carolina and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States.

Canada Geese

Special Early Canada Goose Seasons

Season Lengths and Outside Dates: A Canada goose season of not more than 15 days during September 1–15 may be selected for the Eastern Unit of Maryland. Seasons not to exceed 30 days during September 1–30 may be selected for Connecticut, Florida, Georgia, New Jersey, New York (Long Island Zone only), North Carolina, Rhode Island, and South Carolina. Seasons may not exceed 25 days during September 1–25 in the remainder of the Flyway. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 15 Canada geese.

Shooting Hours: One-half hour before sunrise to sunset, except that during any special early Canada goose season, shooting hours may extend to one-half hour after sunset if all other waterfowl seasons are closed in the specific applicable area.

Regular Canada Goose Seasons

Season Lengths, Outside Dates, and Limits: Specific regulations for Canada geese are provided below by State. These seasons may also include white-fronted geese in an aggregate daily bag limit. Unless subsequently provided, seasons may be split into 2 segments.

Connecticut

North Atlantic Population (NAP) Zone: Between October 1 and January 31, a 60-day season may be held with a 2-bird daily bag limit.

Atlantic Population (AP) Zone: A 30-day season may be held between October 10 and February 5, with a 2-bird daily bag limit.

South Zone: A special season may be held between January 15 and February 15, with a 5-bird daily bag limit.

Resident Population (RP) Zone: An 80-day season may be held between October 1 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Delaware

A 30-day season may be held between November 15 and February 5, with a 1-bird daily bag limit.

Florida

An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Georgia

An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Maine

North and South NAP–H Zones: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit.

Coastal NAP–L Zone: A 70-day season may be held between October 1 and February 15, with a 3-bird daily bag limit.

Maryland

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 30-day season may be held between November 15 and February 5, with a 1-bird daily bag limit.

Massachusetts

NAP Zone: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit. Additionally, a special season may be held from January 15 to February 15, with a 5-bird daily bag limit.

AP Zone: A 30-day season may be held between October 10 and February 5, with a 2-bird daily bag limit.

New Hampshire

A 60-day season may be held Statewide between October 1 and January 31 with a 2-bird daily bag limit.

New Jersey

AP Zone: A 30-day season may be held between the fourth Saturday in October (October 24) and February 5, with a 2-bird daily bag limit.

NAP Zone: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit.

Special Late Goose Season Area: A special season may be held in designated areas of north and south New Jersey from January 15 to February 15, with a 5-bird daily bag limit.

New York

NAP Zone: Between October 1 and January 31, a 60-day season may be held, with a 2-bird daily bag limit in the High Harvest areas; and between October 1 and February 15, a 70-day season may be held, with a 3-bird daily bag limit in the Low Harvest areas.

AP Zone: A 30-day season may be held between the fourth Saturday in October (October 24), except in the Lake Champlain Area where the opening date is October 10, through February 5, with a 2-bird daily bag limit.

Western Long Island RP Zone: A 107-day season may be held between the Saturday nearest September 24 (September 26) and the last day of February, with an 8-bird daily bag limit. The season may be split into 3 segments.

Rest of State RP Zone: An 80-day season may be held between the fourth Saturday in October (October 24) and the last day of February, with a 5-bird daily bag limit. The season may be split into 3 segments.

North Carolina

RP Zone: An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Northeast Zone: A 14-day season may be held between the Saturday prior to December 25 (December 19) and January 31, with a 1-bird daily bag limit.

Pennsylvania

SJBP Zone: A 78-day season may be held between the first Saturday in October (October 3) and February 15, with a 3-bird daily bag limit.

RP Zone: An 80-day season may be held between the fourth Saturday in October (October 24) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 30-day season may be held between the fourth Saturday in October (October 24) and February 5, with a 2-bird daily bag limit.

Rhode Island

A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit. A special late season may be held in designated areas from January 15 to February 15, with a 5-bird daily bag limit.

South Carolina

In designated areas, an 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Vermont

Lake Champlain Zone and Interior Zone: A 30-day season may be held between October 10 and February 5, with a 2-bird daily bag limit.

Connecticut River Zone: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit.

Virginia

SJBP Zone: A 40-day season may be held between November 15 and January 14, with a 3-bird daily bag limit. Additionally, a special late season may be held between January 15 and February 15, with a 5-bird daily bag limit.

AP Zone: A 30-day season may be held between November 15 and February 5, with a 1-bird daily bag limit.

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

West Virginia

An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Light Geese

Season Lengths, Outside Dates, and Limits: States may select a 107-day season between October 1 and March 10, with a 25-bird daily bag limit and no possession limit. Seasons may be split into 3 segments.

Brant

Season Lengths, Outside Dates, and Limits: States may select a 50-day season between the Saturday nearest September 24 (September 26) and January 31, with a 2-bird daily bag limit. Seasons may be split into 2 segments.

Mississippi Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 26) and January 31.

Hunting Seasons and Duck Limits: 60 days. The daily bag limit is 6 ducks, including no more than 4 mallards (no more than 2 of which may be females), 1 mottled duck, 2 black ducks, 1 pintail, 3 wood ducks, 2 canvasbacks, and 2 redheads. For scaup, the daily bag limit may be 2 for up to 45 consecutive days and 1 for the remainder of the season; these days may be split according to applicable duck hunting zone and split-season configurations approved for each State.

Merganser Limits: The daily bag limit is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Alabama, Arkansas, and Mississippi may split their seasons into 3 segments. Kentucky and Tennessee may select seasons in each of 2 zones; and Indiana, Iowa, Louisiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin may select seasons in each of 3 zones; and all these States may split their season in each zone into 2 segments. Illinois may select seasons in each of 4 zones.

Geese

Season Lengths, Outside Dates, and Limits

Canada Geese: States may select seasons for Canada geese not to exceed 107 days with a 5-bird daily bag limit during September 1–30, and a 3-bird

daily bag limit for the remainder of the season. Seasons may be held between September 1 and February 15, and may be split into 4 segments.

White-fronted Geese and Brant: Arkansas, Illinois, Louisiana, Kentucky, Missouri, Mississippi, and Tennessee may select a season for white-fronted geese not to exceed 74 days with 3 geese daily, or 88 days with 2 geese daily, or 107 days with 1 goose daily between September 1 and February 15; Alabama, Iowa, Indiana, Michigan, Minnesota, Ohio, and Wisconsin may select a season for white-fronted geese not to exceed 107 days with 5 geese daily, in the aggregate with dark geese between September 1 and February 15. States may select a season for brant not to exceed 70 days with 2 brant daily, or 107 days with 1 brant daily with outside dates the same as for Canada geese; alternately, States may include brant in an aggregate goose bag limit with either Canada geese, white-fronted geese, or dark geese.

Light Geese: States may select seasons for light geese not to exceed 107 days, with 20 geese daily between September 1 and February 15. There is no possession limit for light geese.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset for Canada geese if all other waterfowl and crane seasons are closed in the specific applicable area.

Split Seasons: Seasons for geese may be split into 4 segments.

Central Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 26) and January 31.

Hunting Seasons

High Plains Mallard Management Unit (roughly defined as that portion of the Central Flyway that lies west of the 100th meridian): 97 days. The last 23 days must run consecutively and may start no earlier than the Saturday nearest December 10 (December 12).

Remainder of the Central Flyway: 74 days.

Duck Limits: The daily bag limit is 6 ducks, including no more than 5 mallards (no more than 2 of which may be females), 2 redheads, 3 wood ducks, 1 pintail, and 2 canvasbacks. The daily bag limit for scaup is 1 and the season for scaup may be split into 2 segments, with one segment consisting of 39 consecutive days and another segment consisting of 35 consecutive days. In Texas, the daily bag limit on mottled ducks is 1, except that no mottled ducks may be taken during the first 5 days of the season. In addition to the daily limits listed above, the States of Montana, North Dakota, South Dakota, and Wyoming, in lieu of selecting an experimental September teal season, may include an additional daily bag and possession limit of 2 and 6 blue-winged teal, respectively, during the first 16 days of the regular duck season in each respective duck hunting zone. These extra limits are in addition to the regular duck bag and possession limits.

Merganser Limits: The daily bag limit is 5 mergansers, only 2 of which may be hooded mergansers. In States that include mergansers in the duck daily bag limit, the daily limit may be the same as the duck bag limit, only two of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Colorado, Kansas (Low Plains portion), Montana, Nebraska, New Mexico, Oklahoma (Low Plains portion), South Dakota (Low Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

North Dakota may split their season into 3 segments. Montana, New Mexico, Oklahoma, and Texas may select seasons in each of 2 zones; and Colorado, Kansas, South Dakota, and Wyoming may select seasons in each of 3 zones; and all these States may split their season in each zone into 2 segments. Nebraska may select seasons in each of 4 zones.

Geese

Special Early Canada Goose Seasons

Season Lengths, Outside Dates, and Limits: In Kansas, Nebraska, Oklahoma, South Dakota, and Texas, Canada goose seasons of not more than 30 days during September 1–30 may be selected. In Colorado, New Mexico, Montana, and Wyoming, Canada goose seasons of not more than 15 days during September 1–15 may be selected. In North Dakota, Canada goose seasons of not more than 22 days during September 1–22 may be selected. The daily bag limit may not exceed 5 Canada geese, except in Kansas, Nebraska, and Oklahoma, where the daily bag limit may not exceed 8 Canada geese, and in North Dakota and South Dakota, where the daily bag limit may not exceed 15 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset if all other waterfowl and crane seasons are closed in the specific applicable area.

Regular Goose Seasons

Season Lengths, Outside Dates, and Limits

Outside Dates: For dark geese, seasons may be selected between the outside dates of the Saturday nearest September 24 (September 26) and the Sunday nearest February 15 (February 14). For light geese, outside dates for seasons may be selected between the Saturday nearest September 24 (September 26) and March 10. In the Rainwater Basin Light Goose Area (East and West) of Nebraska, temporal and spatial restrictions that are consistent with the late-winter snow goose hunting strategy cooperatively developed by the Central Flyway Council and the Service are required.

Dark Geese: In Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas, States may select a season for Canada geese (or any other dark goose species except white-fronted geese) not to exceed 107 days with a daily bag limit of 8. For white-fronted geese, these States may select either a season of 74 days with a bag limit of 3, or an 88-day season with a bag limit of 2, or a season of 107 days with a bag limit of 1.

In Colorado, Montana, New Mexico, and Wyoming, States may select seasons not to exceed 107 days. The daily bag limit for dark geese is 5 in the aggregate.

In the Western Goose Zone of Texas, the season may not exceed 95 days. The daily bag limit for Canada geese (or any other dark goose species except white-fronted geese) is 5. The daily bag limit for white-fronted geese is 2.

Light Geese: States may select a light goose season not to exceed 107 days. The daily bag limit for light geese is 50 with no possession limit.

Split Seasons: Seasons for geese may be split into 3 segments. Three-segment seasons for Canada geese require Central Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation by each participating State.

Pacific Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 26) and January 31.

Hunting Seasons and Duck and Merganser Limits: 107 days. The daily bag limit is 7 ducks and mergansers, including no more than 2 female mallards, 1 pintail, 2 canvasbacks, 2 scaup, and 2 redheads. For scaup, the

season length is 86 days, which may be split according to applicable zones and split duck hunting configurations approved for each State.

Coot, Common Moorhen, and Purple Gallinule Limits: The daily bag limit of coots, common moorhens, and purple gallinules is 25 in the aggregate.

Zoning and Split Seasons: Montana and New Mexico may split their seasons into 3 segments. Arizona, Colorado, Oregon, Utah, Washington, and Wyoming may select seasons in each of 2 zones; Nevada may select seasons in each of 3 zones; and California may select seasons in each of 5 zones; and all these States may split their season in each zone into 2 segments. Idaho may select seasons in each of 4 zones.

Colorado River Zone, California: Seasons and limits should be the same as seasons and limits selected in the adjacent portion of Arizona (South Zone).

Geese

Special Early Canada Goose Seasons

A Canada goose season of not more than 15 days during September 1–20 may be selected. The daily bag limit may not exceed 5 Canada geese, except in Pacific County, Washington, where the daily bag limit may not exceed 15 Canada geese. Areas open to hunting of Canada geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

Regular Goose Seasons

Season Lengths, Outside Dates, and Limits

Canada Geese and Brant: Except as subsequently provided, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 26) and January 31. In Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming, the daily bag limit is 4 Canada geese and brant in the aggregate. In California, Oregon, and Washington, the daily bag limit is 4 Canada geese. For brant, in California, Oregon and Washington, a 27-day season may be selected. Days must be consecutive. Washington and California may select hunting seasons for up to 2 zones. The daily bag limit is 2 brant and is in addition to other goose limits. In Oregon and California, the brant season must end no later than December 15.

White-fronted Geese: Except as subsequently provided, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 26) and March 10. The daily bag limit is 10.

Light Geese: Except as subsequently provided, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 26) and March 10. The daily bag limit is 20.

Split Seasons: Seasons may be split into 3 segments. Three-segment seasons for Canada geese and white-fronted geese require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3-year evaluation by each participating State.

California

The daily bag limit for Canada geese is 10.

Balance of State Zone: A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 26) and March 10. In the Sacramento Valley Special Management Area, the season on white-fronted geese must end on or before December 28, and the daily bag limit is 3 white-fronted geese. In the North Coast Special Management Area, hunting days that occur after January 31 should be concurrent with Oregon's South Coast Zone.

Northeastern Zone: The white-fronted goose season may be split into 3 segments.

Oregon

The daily bag limit for light geese is 6 on or before the last Sunday in January (January 31).

Harney and Lake County Zone: For Lake County only, the daily white-fronted goose bag limit is 1.

Northwest Permit Zone: A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 26) and March 10. Canada goose and white-fronted goose seasons may be split into 3 segments. The daily bag limits of Canada geese and light geese are 6 each. In the Tillamook County Management Area, the hunting season is closed on geese.

South Coast Zone: A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 26) and March 10. Canada goose and white-fronted goose seasons may be split into 3 segments. The daily bag limit of Canada geese is 6. Hunting days that occur after January 31 should be concurrent with California's North Coast Special Management Area.

Utah

A Canada goose and brant season may be selected in the Wasatch Front Zone with outside dates between the Saturday nearest September 24 (September 26) and the first Sunday in February (February 7).

Washington

The daily bag limit for light geese is 6.

Areas 2 Inland and 2 Coastal (Southwest Permit Zone): A Canada goose season may be selected in each zone with outside dates between the Saturday nearest September 24 (September 26) and March 10. Canada goose and white-fronted goose seasons may be split into 3 segments.

Area 4: Canada goose and white-fronted goose seasons may be split into 3 segments.

Permit Zones

In Oregon and Washington permit zones, the hunting season is closed on dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value 5 or less) with a bill length between 40 and 50 millimeters. Hunting of geese will only be by hunters possessing a State-issued permit authorizing them to do so. Shooting hours for geese may begin no earlier than sunrise. Regular Canada goose seasons in the permit zones of Oregon and Washington remain subject to the Memorandum of Understanding entered into with the Service regarding monitoring the impacts of take during the regular Canada goose season on the dusky Canada goose population.

Swans

Pacific Flyway

In portions of the Pacific Flyway (Idaho, Montana, Nevada, and Utah), an open season for taking a limited number of swans may be selected. These seasons are also subject to the following conditions:

Outside Dates: Between the Saturday nearest September 24 (September 26) and January 31.

Hunting Seasons: Seasons may not exceed 107 days, and may be split into 2 segments.

Permits: Swan hunting is by permit only. Permits will be issued by the State and will authorize each permittee to take no more than 1 swan per season with each permit. Only 1 permit may be issued per hunter in Montana and Utah; 2 permits may be issued per hunter in Nevada. The total number of permits issued may not exceed 50 in Idaho, 500 in Montana, 650 in Nevada, and 2,750 in Utah.

Quotas: The swan season in the respective State must end upon attainment of the following reported harvest of trumpeter swans: 20 in Utah and 10 in Nevada. There is no quota in Montana.

Monitoring: Each State must evaluate hunter participation, species-specific swan harvest, and hunter compliance in providing either species-determinant parts (at least the intact head) or bill measurements (bill length from tip to posterior edge of the nares opening, and presence or absence of yellow lore spots on the bill in front of the eyes) of harvested swans for species identification. Each State should use appropriate measures to maximize hunter compliance with the State's program for swan harvest reporting. Each State must achieve a hunter compliance of at least 80 percent in providing species-determinant parts or bill measurements of harvested swans for species identification, or subsequent permits will be reduced by 10 percent in the respective State. Each State must provide to the Service by June 30 following the swan season a report detailing hunter participation, species-specific swan harvest, and hunter compliance in reporting harvest. In Idaho and Montana, all hunters that harvest a swan must complete and submit a reporting card (bill card) with the bill measurement and color information from the harvested swan within 72 hours of harvest for species determination. In Utah and Nevada, all hunters that harvest a swan must have the swan or species-determinant parts examined by a State or Federal biologist within 72 hours of harvest for species determination.

Other Provisions: In Utah, the season is subject to the terms of the Memorandum of Agreement entered into with the Service in January 2019 regarding harvest monitoring, season closure procedures, and education requirements to minimize take of trumpeter swans during the swan season.

Atlantic and Central Flyways

In portions of the Atlantic Flyway (Delaware, North Carolina, and Virginia) and the Central Flyway (North Dakota, South Dakota [east of the Missouri River], and that portion of Montana in the Central Flyway), an open season for taking a limited number of swans may be selected. Permits will be issued by the States that authorize the take of no more than 1 swan per permit. A second permit may be issued to hunters from unused permits remaining after the first drawing.

Monitoring: Each State must evaluate hunter participation, species-specific swan harvest, and hunter compliance in providing measurements of harvested swans for species identification. Each State should use appropriate measures to maximize hunter compliance with the State's program for swan harvest reporting. Each State must achieve a hunter compliance of at least 80 percent in providing species-determinant measurements of harvested swans for species identification. Each State must provide to the Service by June 30 following the swan season a report detailing hunter participation, species-specific swan harvest, and hunter compliance in reporting harvest.

In lieu of a general swan hunting season, States may select a season only for tundra swans. States selecting a season only for tundra swans must obtain harvest and hunter participation data.

These general swan seasons and tundra swan seasons are also subject to the following conditions:

In the Atlantic Flyway

—The season may be 90 days, between October 1 and January 31.
—In Delaware, no more than 67 permits may be issued. The season is experimental.
—In North Carolina, no more than 4,895 permits may be issued.
—In Virginia, no more than 638 permits may be issued.

In the Central Flyway

—The season may be 107 days, between the Saturday nearest October 1 (October 3) and January 31.
—In the Central Flyway portion of Montana, no more than 500 permits may be issued.
—In North Dakota, no more than 2,200 permits may be issued.
—In South Dakota, no more than 1,300 permits may be issued.

Sandhill Cranes

Regular Seasons in the Mississippi Flyway

Outside Dates: Between September 1 and February 28 in Minnesota, and between September 1 and January 31 in Alabama, Kentucky, and Tennessee.

Hunting Seasons: A season not to exceed 37 consecutive days may be selected in the designated portion of northwestern Minnesota (Northwest Goose Zone), and a season not to exceed 60 consecutive days in Alabama, Kentucky, and Tennessee. The season in Alabama is experimental.

Daily Bag Limit: 1 sandhill crane in Minnesota, 2 sandhill cranes in Kentucky, and 3 sandhill cranes in Alabama and Tennessee. In Alabama, Kentucky, and Tennessee, the seasonal bag limit is 3 sandhill cranes.

Permits: Each person participating in the regular sandhill crane seasons must have a valid State sandhill crane hunting permit.

Other Provisions: The number of permits (where applicable), open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plans and approved by the Mississippi Flyway Council.

Regular Seasons in the Central Flyway

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 37 consecutive days may be selected in designated portions of Texas (Area 2). Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes, except 2 sandhill cranes in designated portions of North Dakota (Area 2) and Texas (Area 2).

Permits: Each person participating in the regular sandhill crane season must have a valid Federal or State sandhill crane hunting permit.

Special Seasons in the Central and Pacific Flyways

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (RMP) of sandhill cranes subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 60 days, and may be split into 3 segments.

Bag limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other Provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils, with the following exceptions:

A. In Utah, 100 percent of the harvest will be assigned to the RMP crane quota;

B. In Arizona, monitoring the racial composition of the harvest must be conducted at 3-year intervals unless 100 percent of the harvest will be assigned to the RMP crane quota;

C. In Idaho, 100 percent of the harvest will be assigned to the RMP crane quota; and

D. In the Estancia Valley hunt area of New Mexico, the level and racial composition of the harvest must be monitored; greater sandhill cranes in the harvest will be assigned to the RMP crane quota.

Common Moorhens and Purple Gallinules

Outside Dates: Between September 1 and January 31 in the Atlantic, Mississippi, and Central Flyways. States in the Pacific Flyway may select their hunting seasons between the outside dates for the season on ducks, mergansers, and coots; therefore, Pacific Flyway frameworks for common moorhens and purple gallinules are included with the duck, merganser, and coot frameworks.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into 2 segments. The daily bag limit is 15 common moorhens and purple gallinules in the aggregate.

Zoning: Seasons may be selected by zones established for duck hunting.

Rails

Outside Dates: States included herein may select seasons between September 1 and January 31 on clapper, king, sora, and Virginia rails.

Hunting Seasons: Seasons may not exceed 70 days, and may be split into 2 segments.

Daily Bag Limits

Clapper and King Rails: In Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, 10 rails in the aggregate. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, 15 rails in the aggregate.

Sora and Virginia Rails: In the Atlantic, Mississippi, and Central Flyways and the Pacific Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 rails in the aggregate. The season is closed in the remainder of the Pacific Flyway.

Snipe

Outside Dates: Between September 1 and February 28, except in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and Virginia, where the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into 2 segments. The daily bag limit is 8 snipe.

Zoning: Seasons may be selected by zones established for duck hunting.

American Woodcock

Outside Dates: States in the Eastern Management Region may select hunting seasons between October 1 and January 31. States in the Central Management Region may select hunting seasons between the Saturday nearest September 22 (September 19) and January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 45 days in the Eastern and Central Regions. The daily bag limit is 3. Seasons may be split into 2 segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 36 days.

Band-Tailed Pigeons

Pacific Coast States (California, Oregon, Washington, and Nevada)

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with a daily bag limit of 2.

Zoning: California may select hunting seasons not to exceed 9 consecutive days in each of 2 zones. The season in the North Zone must close by October 3.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah)

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 14 consecutive days, with a daily bag limit of 2.

Zoning: New Mexico may select hunting seasons not to exceed 14 consecutive days in each of 2 zones. The season in the South Zone may not open until October 1.

Doves

Outside Dates: Between September 1 and January 31 in the Eastern Management Unit, and between September 1 and January 15 in the Central and Western Management Units, except as subsequently provided, States may select hunting seasons and daily bag limits as follows:

Eastern Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: Seasons may be split into 3 segments; Alabama, Louisiana, and Mississippi may select seasons in each of 2 zones, and may split their season in each zone into 3 segments.

Central Management Unit

For all States Except Texas

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: Seasons may be split into 3 segments; New Mexico may select seasons in each of 2 zones and may split their season in each zone into 3 segments.

Texas

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves.

Zoning and Split Seasons: Texas may select hunting seasons for each of 3 zones subject to the following conditions:

A. The season may be split into 2 segments, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited take of mourning and white-tipped doves may also occur during that special season (see Special White-winged Dove Area in Texas, below).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between September 14 and January 25.

Special White-Winged Dove Area in Texas

In addition, Texas may select a hunting season of not more than 4 days for the Special White-winged Dove Area between September 1 and September 19. The daily bag limit may not exceed 15 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 2 may be mourning doves and no more than 2 may be white-tipped doves.

Western Management Unit

Hunting Seasons and Daily Bag Limits

Idaho, Nevada, Oregon, Utah, and Washington: Not more than 60 days, which may be split between 2 segments. The daily bag limit is 15 mourning and white-winged doves in the aggregate.

Arizona and *California:* Not more than 60 days, which may be split between 2 segments, September 1–15 and November 1–January 15. In Arizona, during the first segment of the season, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves. During the remainder of the season, the daily bag limit is 15 mourning doves. In

California, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves.

Alaska

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Except as subsequently provided, not more than 107 consecutive days for waterfowl, sandhill cranes, and common snipe concurrent in each of 5 zones. The season may be split into 2 segments in the Kodiak Zone.

Closures: The hunting season is closed on spectacled eiders and Steller's eiders.

Daily Bag and Possession Limits

Ducks: Except as subsequently provided, the basic daily bag limit is 7 ducks. Basic daily bag limit in the North Zone is 10, and in the Gulf Coast Zone is 8. The basic daily bag limits may include no more than 2 canvasbacks daily and may not include sea ducks.

In addition to the basic daily bag limits, Alaska may select sea duck limits of 10 daily in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common and red-breasted mergansers.

Light Geese: The daily bag limit is 6.

Canada Geese: The daily bag limit is 4 with the following exceptions:

A. In Units 5 and 6, the taking of Canada geese is permitted from September 28 through December 16.

B. On Middleton Island in Unit 6, a special, permit-only Canada goose season may be offered. A mandatory goose identification class is required. Hunters must check in and check out. The bag limit is 1 daily and 1 in possession. The season will close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value 5 or less) with a bill length between 40 and 50 millimeters.

C. In Units 9, 10, 17, and 18, the daily bag limit is 6 Canada geese.

White-fronted Geese: The daily bag limit is 4 with the following exceptions:

A. In Units 9, 10, and 17, the daily bag limit is 6 white-fronted geese.

B. In Unit 18, the daily bag limit is 10 white-fronted geese.

Emperor Geese: Open seasons for emperor geese may be selected subject to the following conditions:

A. All seasons are by permit only.

B. No more than 1 emperor goose may be harvested per hunter per season.

C. Total harvest may not exceed 500 emperor geese.

D. In State Game Management Unit 8, the Kodiak Island Road Area is closed to hunting. The Kodiak Island Road Area consists of all lands and water (including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larsen Bay. Marine waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest, for example: Woody, Long, Gull, and Puffin islands.

Brant: The daily bag limit is 2.

Snipe: The daily bag limit is 8.

Sandhill Cranes: The daily bag limit is 2 in the Southeast, Gulf Coast, Kodiak, and Aleutian Zones, and Unit 17 in the North Zone. In the remainder of the North Zone (outside Unit 17), the daily bag limit is 3.

Tundra Swans: Open seasons for tundra swans may be selected subject to the following conditions:

A. All seasons are by permit only.

B. All season framework dates are September 1–October 31.

C. In Unit 17, no more than 200 permits may be issued during this operational season. No more than 3 tundra swans may be authorized per permit, with no more than 1 permit issued per hunter per season.

D. In Unit 18, no more than 500 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

E. In Unit 22, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

F. In Unit 23, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

Hawaii

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 65 days (75 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

Puerto Rico

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 30 Zenaida, mourning, and white-winged doves in the aggregate, of which not more than 10 may be Zenaida doves and 3 may be mourning doves. Not to exceed 5 scaly-naped pigeons.

Closed Seasons: The season is closed on the white-crowned pigeon and the plain pigeon, which are protected by the Commonwealth of Puerto Rico.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

Ducks, Coots, Moorhens, Gallinules, and Snipe

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into 2 segments.

Daily Bag Limits

Ducks: Not to exceed 6 ducks.

Common Moorhens: Not to exceed 6 moorhens.

Common Snipe: Not to exceed 8 snipe.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season also is closed on the purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

Virgin Islands

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 consecutive days.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves or pigeons.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds: Zenaida dove, also known as mountain

dove; bridled quail-dove, also known as Barbary dove or partridge; common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

Ducks

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 6 ducks.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

Special Falconry Regulations

In accordance with 50 CFR 21.29, falconry is a permitted means of taking migratory game birds in any State except for Hawaii. States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons must not exceed 107 days for any species or group of species in a geographical area. Each extended season may be split into 3 segments.

Framework Dates: Seasons must fall between September 1 and March 10.

Daily Bag Limits: Falconry daily bag limits for all permitted migratory game birds must not exceed 3 birds in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry. Regular season bag limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Area, Unit, and Zone Descriptions

Ducks (Including Mergansers) and Coots

Atlantic Flyway

Connecticut

North Zone: That portion of the State north of I–95.

South Zone: Remainder of the State.

Maine

North Zone: That portion north of the line extending east along Maine State Highway 110 from the New Hampshire–Maine State line to the intersection of Maine State Highway 11 in Newfield; then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; then north and east on Route 202 to the intersection of I–95 in Augusta; then north and east along I–95 to Route 15 in Bangor; then east along Route 15 to Route 9; then east along Route 9 to Stony Brook in Baileyville; then east along Stony Brook to the U.S. border.

Coastal Zone: That portion south of a line extending east from the Maine–New Brunswick border in Calais at the Route 1 Bridge; then south along Route 1 to the Maine–New Hampshire border in Kittery.

South Zone: Remainder of the State.

Maryland

Special Teal Season Area: Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State Line.

Massachusetts

Western Zone: That portion of the State west of a line extending south from the Vermont State line on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut State line.

Central Zone: That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire State line on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island State line; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.–Elm St. bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

New Hampshire

Northern Zone: That portion of the State east and north of the Inland Zone beginning at the Jct. of Rte. 10 and Rte. 25–A in Orford, east on Rte. 25–A to Rte. 25 in Wentworth, southeast on Rte. 25 to Exit 26 of Rte. I–93 in Plymouth, south on Rte. I–93 to Rte. 3 at Exit 24 of Rte. I–93 in Ashland, northeast on Rte. 3 to Rte. 113 in Holderness, north on Rte. 113 to Rte. 113–A in Sandwich, north on Rte. 113–A to Rte. 113 in Tamworth, east on Rte. 113 to Rte. 16 in Chocorua, north on Rte. 16 to Rte. 302 in Conway, east on Rte. 302 to the Maine–New Hampshire border.

Inland Zone: That portion of the State south and west of the Northern Zone, west of the Coastal Zone, and includes the area of Vermont and New Hampshire as described for hunting reciprocity. A person holding a New Hampshire hunting license that allows the taking of migratory waterfowl or a person holding a Vermont resident hunting license that allows the taking of migratory waterfowl may take migratory waterfowl and coots from the following designated area of the Inland Zone: the State of Vermont east of Rte. I–91 at the Massachusetts border, north on Rte. I–91 to Rte. 2, north on Rte. 2 to Rte. 102, north on Rte. 102 to Rte. 253, and north on Rte. 253 to the border with Canada and the area of New Hampshire west of Rte. 63 at the Massachusetts border, north on Rte. 63 to Rte. 12, north on Rte. 12 to Rte. 12–A, north on Rte. 12–A to Rte. 10, north on Rte. 10 to Rte. 135, north on Rte. 135 to Rte. 3, north on Rte. 3 to the intersection with the Connecticut River.

Coastal Zone: That portion of the State east of a line beginning at the Maine–New Hampshire border in Rollinsford, then extending to Rte. 4 west to the city of Dover, south to the intersection of Rte. 108, south along Rte. 108 through Madbury, Durham, and Newmarket to the junction of Rte. 85 in Newfields, south to Rte. 101 in Exeter, east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south to the Massachusetts border.

New Jersey

Coastal Zone: That portion of the State seaward of a line beginning at the New York State line in Raritan Bay and extending west along the New York State line to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to NJ 109; south on NJ 109 to Cape May County Route 633 (Lafayette Street); south on Lafayette Street to Jackson Street; south on Jackson Street to the shoreline at Cape May; west along the shoreline of Cape May beach to COLREGS Demarcation Line 80.503 at Cape May Point; south along COLREGS Demarcation Line 80.503 to the Delaware State line in Delaware Bay.

North Zone: That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania State line in the Delaware River.

South Zone: That portion of the State not within the North Zone or the Coastal Zone.

New York

Lake Champlain Zone: That area east and north of a continuous line extending along U.S. 11 from the New York-Canada International boundary south to NY 9B, south along NY 9B to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont State line.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania State line.

Northeastern Zone: That area north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 31, east along NY 31 to NY 13, north along NY 13 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to NY 22, north along NY 22 to Washington County Route 153, east along CR 153 to the New York-Vermont boundary, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Pennsylvania

Lake Erie Zone: The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

Northwest Zone: The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I–80.

North Zone: That portion of the State east of the Northwest Zone and north of a line extending east on I–80 to U.S. 220, Route 220 to I–180, I–180 to I–80, and I–80 to the Delaware River.

South Zone: The remaining portion of Pennsylvania.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to VT 78 at Swanton; VT 78 to VT 36; VT 36 to Maquam Bay on Lake Champlain; along and around the shoreline of Maquam Bay and Hog Island to VT 78 at the West Swanton Bridge; VT 78 to VT 2 in Alburg; VT 2 to the Richelieu River in Alburg; along the east shore of the Richelieu River to the Canadian border.

Interior Zone: That portion of Vermont east of the Lake Champlain Zone and west of a line extending from the Massachusetts border at Interstate 91; north along Interstate 91 to U.S. 2; east along U.S. 2 to VT 102; north along VT 102 to VT 253; north along VT 253 to the Canadian border.

Connecticut River Zone: The remaining portion of Vermont east of the Interior Zone.

Mississippi Flyway

Illinois

North Zone: That portion of the State north of a line extending west from the Indiana border along Peotone-Beecher Road to Illinois Route 50, south along Illinois Route 50 to Wilmington-Peotone Road, west along Wilmington-Peotone Road to Illinois Route 53, north along Illinois Route 53 to New River Road, northwest along New River Road to Interstate Highway 55, south along I–55 to Pine Bluff-Lorenzo Road, west along Pine Bluff-Lorenzo Road to Illinois Route 47, north along Illinois Route 47 to I–80, west along I–80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Duck Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's Road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South Zone: That portion of the State south and east of a line extending west from the Indiana border along Interstate 70, south along U.S. Highway 45, to Illinois Route 13, west along Illinois Route 13 to Greenbriar Road, north on Greenbriar Road to Sycamore Road, west on Sycamore Road to N. Reed Station Road, south on N. Reed Station Road to Illinois Route 13, west along Illinois Route 13 to Illinois Route 127, south along Illinois Route 127 to State Forest Road (1025 N), west along State Forest Road to Illinois Route 3, north along Illinois Route 3 to the south bank of the Big Muddy River, west along the south bank of the Big Muddy River to the Mississippi River, west across the Mississippi River to the Missouri border.

South Central Zone: The remainder of the State between the south border of the Central Zone and the North border of the South Zone.

Indiana

North Zone: That part of Indiana north of a line extending east from the Illinois border along State Road 18 to U.S. 31; north along U.S. 31 to U.S. 24; east along U.S. 24 to Huntington; southeast along U.S. 224; south along State Road 5; and east along State Road 124 to the Ohio border.

Central Zone: That part of Indiana south of the North Zone boundary and north of the South Zone boundary.

South Zone: That part of Indiana south of a line extending east from the Illinois border along I–70; east along National Ave.; east along U.S. 150; south along U.S. 41; east along State Road 58; south along State Road 37 to Bedford; and east along U.S. 50 to the Ohio border.

Iowa

North Zone: That portion of Iowa north of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, east along State Highway 175 to State Highway 37, southeast along State Highway 37 to State Highway 183, northeast along State Highway 183 to State Highway 141, east along State Highway 141 to U.S. Highway 30, and along U.S. Highway 30 to the Illinois border.

Missouri River Zone: That portion of Iowa west of a line beginning on the South Dakota–Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, and west along State Highway 175 to the Iowa-Nebraska border.

South Zone: The remainder of Iowa.

Kentucky

West Zone: All counties west of and including Butler, Daviess, Ohio, Simpson, and Warren Counties.

East Zone: The remainder of Kentucky.

Louisiana

East Zone: That area of the State between the Mississippi State line and a line going south on Highway (Hwy) 79 from the Arkansas border to Homer, then south on Hwy 9 to Arcadia, then south on Hwy 147 to Hodge, then south on Hwy 167 to Turkey Creek, then south on Hwy 13 to Eunice, then west on Hwy 190 to Kinder, then south on Hwy 165 to Iowa, then west on I–10 to its junction with Hwy 14 at Lake Charles, then south and east on Hwy 14 to its junction with Hwy 90 in New Iberia, then east on Hwy 90 to the Mississippi State line.

West Zone: That area between the Texas State line and a line going east on I–10 from the Texas border to Hwy 165 at Iowa, then north on Hwy 165 to Kinder, then east on Hwy 190 to Eunice, then north on Hwy 13 to Turkey Creek, then north on Hwy 167 to Hodge, then north on Hwy 147 to Arcadia, then north on Hwy 9 to Homer, then north on Hwy 79 to the Arkansas border.

Coastal Zone: Remainder of the State.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin State line in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, easterly along U.S. 10 BR to U.S. 10, easterly along U.S. 10 to Interstate Highway 75/U.S. Highway 23, northerly along I–75/U.S. 23 to the U.S. 23 exit at Standish, easterly along U.S. 23 to the centerline of the Au Gres River, then southerly along the centerline of the Au Gres River to Saginaw Bay, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canadian border.

South Zone: The remainder of Michigan.

Minnesota

North Duck Zone: That portion of the State north of a line extending east from the North Dakota State line along State Highway 210 to State Highway 23 and east to State Highway 39 and east to the Wisconsin State line at the Oliver Bridge.

South Duck Zone: The portion of the State south of a line extending east from the South Dakota State line along U.S. Highway 212 to Interstate 494 and east to Interstate 94 and east to the Wisconsin State line.

Central Duck Zone: The remainder of the State.

Missouri

North Zone: That portion of Missouri north of a line running west from the Illinois border at Lock and Dam 25; west on Lincoln County Hwy N to MO Hwy 79; south on MO Hwy 79 to MO Hwy 47; west on MO Hwy 47 to I–70; west on I–70 to the Kansas border.

Middle Zone: The remainder of Missouri not included in other zones.

South Zone: That portion of Missouri south of a line running west from the Illinois border on MO Hwy 74 to MO Hwy 25; south on MO Hwy 25 to U.S. Hwy 62; west on U.S. Hwy. 62 to MO Hwy 53; north on MO Hwy 53 to MO Hwy 51; north on MO Hwy 51 to U.S. Hwy 60; west on U.S. Hwy 60 to MO Hwy 21; north on MO Hwy 21 to MO Hwy 72; west on MO Hwy 72 to MO Hwy 32; west on MO Hwy 32 to U.S. Hwy 65; north on U.S. Hwy 65 to U.S. Hwy 54; west on U.S. Hwy 54 to U.S. Hwy 71; south on U.S. Hwy 71 to Jasper County Hwy M (Base Line Blvd.); west on Jasper County Hwy M (Base Line Blvd.) to CRD 40 (Base Line Blvd.); west on CRD 40 (Base Line Blvd.) to the Kansas border.

Ohio

Lake Erie Marsh Zone: Includes all land and water within the boundaries of the area bordered by a line beginning at the intersection of Interstate 75 at the Ohio-Michigan State line and continuing south to Interstate 280, then south on I–280 to the Ohio Turnpike (I–80/I–90), then east on the Ohio Turnpike to the Erie-Lorain County line, then north to Lake Erie, then following the Lake Erie shoreline at a distance of 200 yards offshore, then following the shoreline west toward and around the northern tip of Cedar Point Amusement Park, then continuing from the westernmost point of Cedar Point toward the southernmost tip of the sand bar at the mouth of Sandusky Bay and out into Lake Erie at a distance of 200 yards offshore continuing parallel to the Lake Erie shoreline north and west toward the northernmost tip of Cedar Point National Wildlife Refuge, then following a direct line toward the southernmost tip of Wood Tick Peninsula in Michigan to a point that intersects the Ohio-Michigan State line, then following the State line back to the point of the beginning.

North Zone: That portion of the State, excluding the Lake Erie Marsh Zone, north of a line extending east from the Indiana State line along U.S. Highway (U.S.) 33 to State Route (SR) 127, then south along SR 127 to SR 703, then south along SR 703 and including all lands within the Mercer Wildlife Area to SR 219, then east along SR 219 to SR 364, then north along SR 364 and including all lands within the St. Mary's Fish Hatchery to SR 703, then east along SR 703 to SR 66, then north along SR 66 to U.S. 33, then east along U.S. 33 to SR 385, then east along SR 385 to SR 117, then south along SR 117 to SR 273, then east along SR 273 to SR 31, then south along SR 31 to SR 739, then east along SR 739 to SR 4, then north along SR 4 to SR 95, then east along SR 95 to SR 13, then southeast along SR 13 to SR 3, then northeast along SR 3 to SR 60, then north along SR 60 to U.S. 30, then east along U.S. 30 to SR 3, then south along SR 3 to SR 226, then south along SR 226 to SR 514, then southwest along SR 514 to SR 754, then south along SR 754 to SR 39/60, then east along SR 39/60 to SR 241, then north along SR 241 to U.S. 30, then east along U.S. 30 to SR 39, then east along SR 39 to the Pennsylvania State line.

South Zone: The remainder of Ohio not included in the Lake Erie Marsh Zone or the North Zone.

Tennessee

Reelfoot Zone: All or portions of Lake and Obion Counties.

Remainder of State: That portion of Tennessee outside of the Reelfoot Zone.

Wisconsin

North Zone: That portion of the State north of a line extending east from the Minnesota State line along U.S. Highway 10 into Portage County to County Highway HH, east on County Highway HH to State Highway 66 and then east on State Highway 66 to U.S. Highway 10, continuing east on U.S. Highway 10 to U.S. Highway 41, then north on U.S. Highway 41 to the Michigan State line.

Mississippi River Zone: That area encompassed by a line beginning at the intersection of the Burlington Northern & Santa Fe Railway and the Illinois State line in Grant County and extending northerly along the Burlington Northern & Santa Fe Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota State line.

South Zone: The remainder of Wisconsin.

Central Flyway

Colorado (Central Flyway Portion)

Special Teal Season Area: Lake and Chaffee Counties and that portion of the State east of Interstate Highway 25.

Northeast Zone: All areas east of Interstate 25 and north of Interstate 70.

Southeast Zone: All areas east of Interstate 25 and south of Interstate 70, and all of El Paso, Pueblo, Huerfano, and Las Animas Counties.

Mountain/Foothills Zone: All areas west of Interstate 25 and east of the Continental Divide, except El Paso, Pueblo, Huerfano, and Las Animas Counties.

Kansas

High Plains: That portion of the State west of U.S. 283.

Low Plains Early Zone: That part of Kansas bounded by a line from the Federal highway U.S.–283 and State highway 96 junction, then east on State highway 96 to its junction with Federal highway U.S.–183, then north on Federal highway U.S.–183 to its junction with Federal highway U.S.–24, then east on Federal highway U.S.–24 to its junction with Federal highway U.S.–281, then north on Federal highway U.S.–281 to its junction with Federal highway U.S.–36, then east on Federal highway U.S.–36 to its junction with State highway K–199, then south on State highway K–199 to its junction with Republic County 30th Road, then south on Republic County 30th Road to its junction with State highway K–148, then east on State highway K–148 to its junction with Republic County 50th Road, then south on Republic County 50th Road to its junction with Cloud County 40th Road, then south on Cloud County 40th Road to its junction with State highway K–9, then west on State highway K–9 to its junction with Federal highway U.S.–24, then west on Federal highway U.S.–24 to its junction with Federal highway U.S.–181, then south on Federal highway U.S.–181 to its junction with State highway K–18, then west on State highway K–18 to its junction with Federal highway U.S.–281, then south on Federal highway U.S.–281 to its junction with State highway K–4, then east on State highway K–4 to its junction with interstate highway I–135, then south on interstate highway I–135 to its junction with State highway K–61, then southwest on State highway K–61 to its junction with McPherson County 14th Avenue, then south on McPherson County 14th Avenue to its junction with McPherson County Arapaho Rd, then west on McPherson County Arapaho Rd to its junction with State highway K–61, then southwest on State highway K–61 to its junction with State highway K–96, then northwest on State highway K–96 to its junction with Federal highway U.S.–56, then southwest on Federal highway U.S.–56 to its junction with State highway K–19, then east on State highway K–19 to its junction with Federal highway U.S.–281, then south on Federal highway U.S.–281 to its junction with Federal highway U.S.–54, then west on Federal highway U.S.–54 to its junction with Federal highway U.S.–183, then north on Federal highway U.S.–183 to its junction with Federal highway U.S.–56, then southwest on Federal highway U.S.–56 to its junction with North Main Street in Spearville, then south on North Main Street to Davis Street, then east on Davis Street to Ford County Road 126 (South Stafford Street), then south on Ford County Road 126 to Garnett Road, then east on Garnett Road to Ford County Road 126, then south on Ford County Road 126 to Ford Spearville Road, then west on Ford Spearville Road to its junction with Federal highway U.S.–400, then northwest on Federal highway U.S.–400 to its junction with Federal highway U.S.–283, and then north on Federal highway U.S.–283 to its junction with Federal highway U.S.–96.

Low Plains Late Zone: That part of Kansas bounded by a line from the Federal highway U.S.–283 and State highway 96 junction, then north on Federal highway U.S.–283 to the Kansas-Nebraska State line, then east along the Kansas-Nebraska State line to its junction with the Kansas-Missouri State line, then southeast along the Kansas-Missouri State line to its junction with State highway K–68, then west on State highway K–68 to its junction with interstate highway I–35, then southwest on interstate highway I–35 to its junction with Butler County NE 150th Street, then west on Butler County NE 150th Street to its junction with Federal highway U.S.–77, then south on Federal highway U.S.–77 to its junction with the Kansas-Oklahoma State line, then west along the Kansas-Oklahoma State line to its junction with Federal highway U.S.–283, then north on Federal highway U.S.–283 to its junction with Federal highway U.S.–400, then east on Federal highway U.S.–400 to its junction with Ford Spearville Road, then east on Ford Spearville Road to Ford County Road 126 (South Stafford Street), then north on Ford County Road 126 to Garnett Road, then west on Garnett Road to Ford County Road 126, then north on Ford County Road 126 to Davis Street, then west on Davis Street to North Main Street, then north on North Main Street to its junction with Federal highway U.S.–56, then east on Federal highway U.S.–56 to its junction with Federal highway U.S.–183, then south on Federal highway U.S.–183 to its junction with Federal highway U.S.–54, then east on Federal highway U.S.–54 to its junction with Federal highway U.S.–281, then north on Federal highway U.S.–281 to its junction with State highway K–19, then west on State highway K–19 to its junction with Federal highway U.S.–56, then east on Federal highway U.S.–56 to its junction with State highway K–96, then southeast on State highway K–96 to its junction with State highway K–61, then northeast on State highway K–61 to its junction with McPherson County Arapaho Road, then east on McPherson County Arapaho Road to its junction with McPherson County 14th Avenue, then north on McPherson County 14th Avenue to its junction with State highway K–61, then east on State highway K–61 to its junction with interstate highway I–135, then north on interstate highway I–135 to its junction with State highway K–4, then west on State highway K–4 to its junction with Federal highway U.S.–281, then north on Federal highway U.S.–281 to its junction with State highway K–18, then east on State highway K–18 to its junction with Federal highway U.S.–181, then north on Federal highway U.S.–181 to its junction with Federal highway U.S.–24, then east on Federal highway U.S.–24 to its junction with State highway K–9, then east on State highway K–9 to its junction with Cloud County 40th Road, then north on Cloud County 40th Road to its junction with Republic County 50th Road, then north on Republic County 50th Road to its junction with State highway K–148, then west on State highway K–148 to its junction with Republic County 30th Road, then north on Republic County 30th Road to its junction with State highway K–199, then north on State highway K–199 to its junction with Federal highway U.S.–36, then west on Federal highway U.S.–36 to its junction with Federal highway U.S.–281, then south on Federal highway U.S.–281 to its junction with Federal highway U.S.–24, then west on Federal highway U.S.–24 to its junction with Federal highway U.S.–183, then south on Federal highway U.S.–183 to its junction with Federal highway U.S.–96, and then west on Federal highway U.S.–96 to its junction with Federal highway U.S.–283.

Low Plains Southeast Zone: That part of Kansas bounded by a line from the Missouri-Kansas State line west on K–

68 to its junction with I–35, then southwest on I–35 to its junction with Butler County, NE 150th Street, then west on NE 150th Street to its junction with Federal highway U.S.–77, then south on Federal highway U.S.–77 to the Oklahoma-Kansas State line, then east along the Kansas-Oklahoma State line to its junction with the Kansas-Missouri State line, then north along the Kansas-Missouri State line to its junction with State highway K–68.

Montana (Central Flyway Portion)

Zone 1: The Counties of Blaine, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland, Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, and Wibaux.

Zone 2: The Counties of Big Horn, Carbon, Custer, Prairie, Rosebud, Treasure, and Yellowstone.

Nebraska

High Plains: That portion of Nebraska lying west of a line beginning at the South Dakota-Nebraska border on U.S. Hwy 183; south on U.S. Hwy 183 to U.S. Hwy 20; west on U.S. Hwy 20 to NE Hwy 7; south on NE Hwy 7 to NE Hwy 91; southwest on NE Hwy 91 to NE Hwy 2; southeast on NE Hwy 2 to NE Hwy 92; west on NE Hwy 92 to NE Hwy 40; south on NE Hwy 40 to NE Hwy 47; south on NE Hwy 47 to NE Hwy 23; east on NE Hwy 23 to U.S. Hwy 283; and south on U.S. Hwy 283 to the Kansas-Nebraska border.

Zone 1: Area bounded by designated Federal and State highways and political boundaries beginning at the South Dakota-Nebraska border west of NE Hwy 26E Spur and north of NE Hwy 12; those portions of Dixon, Cedar, and Knox Counties north of NE Hwy 12; that portion of Keya Paha County east of U.S. Hwy 183; and all of Boyd County. Both banks of the Niobrara River in Keya Paha and Boyd Counties east of U.S. Hwy 183 shall be included in Zone 1.

Zone 2: The area south of Zone 1 and north of Zone 3.

Zone 3: Area bounded by designated Federal and State highways, County roads, and political boundaries beginning at the Wyoming-Nebraska border at the intersection of the Interstate Canal; east along northern borders of Scotts Bluff and Morrill Counties to Broadwater Road; south to Morrill County Rd 94; east to County Rd 135; south to County Rd 88; southeast to County Rd 151; south to County Rd 80; east to County Rd 161; south to County Rd 76; east to County Rd 165; south to County Rd 167; south to U.S. Hwy 26; east to County Rd 171; north to County Rd 68; east to County Rd 183; south to County Rd 64; east to County Rd 189; north to County Rd 70; east to County Rd 201; south to County Rd 60A; east to County Rd 203; south to County Rd 52; east to Keith County Line; east along the northern boundaries of Keith and Lincoln Counties to NE Hwy 97; south to U.S. Hwy 83; south to E Hall School Rd; east to N Airport Road; south to U.S. Hwy 30; east to NE Hwy 47; north to Dawson County Rd 769; east to County Rd 423; south to County Rd 766; east to County Rd 428; south to County Rd 763; east to NE Hwy 21 (Adams Street); south to County Rd 761; east to the Dawson County Canal; south and east along the Dawson County Canal to County Rd 444; south to U.S. Hwy 30; east to U.S. Hwy 183; north to Buffalo County Rd 100; east to 46th Avenue; north to NE Hwy 40; south and east to NE Hwy 10; north to Buffalo County Rd 220 and Hall County Husker Hwy; east to Hall County Rd 70; north to NE Hwy 2; east to U.S. Hwy 281; north to Chapman Rd; east to 7th Rd; south to U.S. Hwy 30; east to Merrick County Rd 13; north to County Rd O; east to NE Hwy 14; north to NE Hwy 52; west and north to NE Hwy 91; west to U.S. Hwy 281; south to NE Hwy 22; west to NE Hwy 11; northwest to NE Hwy 91; west to U.S. Hwy 183; south to Round Valley Rd; west to Sargent River Rd; west to Drive 443; north to Sargent Rd; west to NE Hwy S21A; west to NE Hwy 2; west and north to NE Hwy 91; north and east to North Loup Spur Rd; north to North Loup River Rd; east to Pleasant Valley/Worth Rd; east to Loup County line; north to Loup-Brown County line; east along northern boundaries of Loup and Garfield Counties to Cedar River Rd; south to NE Hwy 70; east to U.S. Hwy 281; north to NE Hwy 70; east to NE Hwy 14; south to NE Hwy 39; southeast to NE Hwy 22; east to U.S. Hwy 81; southeast to U.S. Hwy 30; east to U.S. Hwy 75; north to the Washington County line; east to the Iowa-Nebraska border; south to the Missouri-Nebraska border; south to Kansas-Nebraska border; west along Kansas-Nebraska border to Colorado-Nebraska border; north and west to Wyoming-Nebraska border; north to intersection of Interstate Canal; and excluding that area in Zone 4.

Zone 4: Area encompassed by designated Federal and State highways and County roads beginning at the intersection of NE Hwy 8 and U.S. Hwy 75; north to U.S. Hwy 136; east to the intersection of U.S. Hwy 136 and the Steamboat Trace (Trace); north along the Trace to the intersection with Federal Levee R–562; north along Federal Levee R–562 to the intersection with Nemaha County Rd 643A; south to the Trace; north along the Trace/Burlington Northern Railroad right-of-way to NE Hwy 2; west to U.S. Hwy 75; north to NE Hwy 2; west to NE Hwy 50; north to U.S. Hwy 34; west to NE Hwy 63; north to NE Hwy 66; north and west to U.S. Hwy 77; north to NE Hwy 92; west to NE Hwy Spur 12F; south to Butler County Rd 30; east to County Rd X; south to County Rd 27; west to County Rd W; south to County Rd 26; east to County Rd X; south to County Rd 21 (Seward County Line); west to NE Hwy 15; north to County Rd 34; west to County Rd H; south to NE Hwy 92; west to U.S. Hwy 81; south to NE Hwy 66; west to Polk County Rd C; north to NE Hwy 92; west to U.S. Hwy 30; west to Merrick County Rd 17; south to Hordlake Road; southeast to Prairie Island Road; southeast to Hamilton County Rd T; south to NE Hwy 66; west to NE Hwy 14; south to County Rd 22; west to County Rd M; south to County Rd 21; west to County Rd K; south to U.S. Hwy 34; west to NE Hwy 2; south to U.S. Hwy I–80; west to Gunbarrel Rd (Hall/Hamilton County line); south to Giltner Rd; west to U.S. Hwy 281; south to Lochland Rd; west to Holstein Avenue; south to U.S. Hwy 34; west to NE Hwy 10; north to Kearney County Rd R and Phelps County Rd 742; west to U.S. Hwy 283; south to U.S. Hwy 34; east to U.S. Hwy 136; east to U.S. Hwy 183; north to NE Hwy 4; east to NE Hwy 10; south to U.S. Hwy 136; east to NE Hwy 14; south to NE Hwy 8; east to U.S. Hwy 81; north to NE Hwy 4; east to NE Hwy 15; south to U.S. Hwy 136; east to Jefferson County Rd 578 Avenue; south to PWF Rd; east to NE Hwy 103; south to NE Hwy 8; east to U.S. Hwy 75.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

North Dakota

High Plains: That portion of the State south and west of a line beginning at the junction of U.S. Hwy 83 and the South Dakota State line, then north along U.S. Hwy 83 and I–94 to ND Hwy 41, then north on ND Hwy 41 to ND Hwy 53, then west on ND Hwy 53 to U.S. Hwy 83, then north on U.S. Hwy 83 to U.S. Hwy 2, then west on U.S. Hwy 2 to the Williams County line, then north and west along the Williams and Divide County lines to the Canadian border.

Low Plains: The remainder of North Dakota.

Oklahoma

High Plains: The Counties of Beaver, Cimarron, and Texas.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north of a line extending east from the Texas State line along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S. 183 to I–40, east along I–40 to U.S. 177, north along U.S. 177 to OK 33, east along OK 33 to OK 18, north along OK 18 to OK 51, west along OK 51 to I–35, north along I–35 to U.S. 412, west along U.S. 412 to OK 132, then north along OK 132 to the Kansas State line.

Low Plains Zone 2: The remainder of Oklahoma.

South Dakota

High Plains: That portion of the State west of a line beginning at the North Dakota State line and extending south along U.S. 83 to U.S. 14, east on U.S. 14 to Blunt, south on the Blunt-Canning Rd to SD 34, east and south on SD 34 to SD 50 at Lee's Corner, south on SD 50 to I–90, east on I–90 to SD 50, south on SD 50 to SD 44, west on SD 44 across the Platte-Winner bridge to SD 47, south on SD 47 to U.S. 18, east on U.S. 18 to SD 47, south on SD 47 to the Nebraska State line.

Low Plains North Zone: That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along U.S. 212 to the Minnesota State line.

Low Plains South Zone: That portion of Gregory County east of SD 47 and south of SD 44; Charles Mix County south of SD 44 to the Douglas County line; south on SD 50 to Geddes; east on the Geddes Highway to U.S. 281; south on U.S. 281 and U.S. 18 to SD 50; south and east on SD 50 to the Bon Homme County line; the Counties of Bon Homme, Yankton, and Clay south of SD 50; and Union County south and west of SD 50 and I–29.

Low Plains Middle Zone: The remainder of South Dakota.

Texas

High Plains: That portion of the State west of a line extending south from the Oklahoma State line along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

Low Plains North Zone: That portion of northeastern Texas east of the High Plains Zone and north of a line beginning at the International Toll Bridge south of Del Rio, then extending east on U.S. 90 to San Antonio, then continuing east on I–10 to the Louisiana State line at Orange, Texas.

Low Plains South Zone: The remainder of Texas.

Wyoming (Central Flyway portion)

Zone C1: Big Horn, Converse, Goshen, Hot Springs, Natrona, Park, Platte, and Washakie Counties; and Fremont County excluding the portions west or south of the Continental Divide.

Zone C2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone C3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

Pacific Flyway

Arizona

North Zone: Game Management Units 1–5, those portions of Game Management Units 6 and 8 within Coconino County, and Game Management Units 7, 9, and 12A.

South Zone: Those portions of Game Management Units 6 and 8 in Yavapai County, and Game Management Units 10 and 12B–45.

California

Northeastern Zone: That portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California–Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to Main Street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California–Nevada State line; north along the California–Nevada State line to the junction of the California–Nevada–Oregon State lines; west along the California–Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line from the intersection of Highway 95 with the California–Nevada State line; south on Highway 95 through the junction with Highway 40; south on Highway 95 to Vidal Junction; south through the town of Rice to the San Bernardino–Riverside County line on a road known as ''Aqueduct Road'' also known as Highway 62 in San Bernardino County; southwest on Highway 62 to Desert Center Rice Road; south on Desert Center Rice Road/Highway 177 to the town of Desert Center; east 31 miles on Interstate 10 to its intersection with Wiley Well Road; south on Wiley Well Road to Wiley Well; southeast on Milpitas Wash Road to the Blythe, Brawley, Davis Lake intersections; south on Blythe Ogilby Road also known as County Highway 34 to its intersection with Ogilby Road; south on Ogilby Road to its intersection with Interstate 8; east 7 miles on Interstate 8 to its intersection with the Andrade-Algodones Road/Highway 186; south on Highway 186 to its intersection with the U.S.–Mexico border at Los Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River zone) south and east of a line beginning at the mouth of the Santa Maria River at the Pacific Ocean; east along the Santa Maria River to where it crosses Highway 101–166 near the City of Santa Maria; north on Highway 101–166; east on Highway 166 to the junction with Highway 99; south on Highway 99 to the junction of Interstate 5; south on Interstate 5 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to where it intersects Highway 178 at Walker Pass; east on Highway 178 to the junction of Highway 395 at the town of Inyokern; south on Highway 395 to the junction of Highway 58; east on Highway 58 to the junction of Interstate 15; east on Interstate 15 to the junction with Highway 127; north on Highway 127 to the point of intersection with the California–Nevada State line.

Southern San Joaquin Valley Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance of State Zone: The remainder of California not included in the Northeastern, Colorado River, Southern, and the Southern San Joaquin Valley Zones.

Colorado (Pacific Flyway Portion)

Eastern Zone: Routt, Grand, Summit, Eagle, and Pitkin Counties, those portions of Saguache, San Juan, Hinsdale, and Mineral Counties west of the Continental Divide, those portions of Gunnison County except the North Fork of the Gunnison River Valley

(Game Management Units 521, 53, and 63), and that portion of Moffat County east of the northern

intersection of Moffat County Road 29 with the Moffat–Routt County line, south along Moffat County Road 29 to the intersection of Moffat County Road 29 with the Moffat–Routt County line (Elkhead Reservoir State Park).

Western Zone: All areas west of the Continental Divide not included in the Eastern Zone.

Idaho

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 3: Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Cassia, Clearwater, Custer, Elmore, Franklin, Gem, Gooding, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Shoshone, Twin Falls, and Washington Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Valley County.

Nevada

Northeast Zone: Elko and White Pine Counties.

Northwest Zone: Carson City, Churchill, Douglas, Esmeralda, Eureka, Humboldt, Lander, Lyon, Mineral, Nye, Pershing, Storey, and Washoe Counties.

South Zone: Clark and Lincoln Counties.

Moapa Valley Special Management Area: That portion of Clark County including the Moapa Valley to the confluence of the Muddy and Virgin Rivers.

Oregon

Zone 1: Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Gilliam, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington, and Yamhill, Counties.

Zone 2: The remainder of Oregon not included in Zone 1.

Utah

Zone 1: Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Uintah, Utah, Wasatch, and Weber Counties, and that part of Toole County north of I–80.

Zone 2: The remainder of Utah not included in Zone 1.

Washington

East Zone: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

West Zone: The remainder of Washington not included in the East Zone.

Wyoming (Pacific Flyway Portion)

Snake River Zone: Beginning at the south boundary of Yellowstone National Park and the Continental Divide; south along the Continental Divide to Union Pass and the Union Pass Road (U.S.F.S. Road 600); west and south along the Union Pass Road to U.S.F.S. Road 605; south along U.S.F.S. Road 605 to the Bridger–Teton National Forest boundary; along the national forest boundary to the Idaho State line; north along the Idaho State line to the south boundary of Yellowstone National Park; east along the Yellowstone National Park boundary to the Continental Divide.

Balance of State Zone: The remainder of the Pacific Flyway portion of Wyoming not included in the Snake River Zone.

Geese

Atlantic Flyway

Connecticut

Early Canada Goose Seasons

South Zone: Same as for ducks.

North Zone: Same as for ducks.

Regular Seasons

AP Unit: Litchfield County and the portion of Hartford County west of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with I–91 in Windsor, and then extending south along I–91 to its intersection with the Hartford–Middlesex County line (Rocky Hill/Cromwell).

NAP H–Unit: That part of the State east of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with I–91 in Windsor and then extending south along I–91 to State Street in New Haven; then south on State Street to Route 34, west on Route 34 to Route 8, south along Route 8 to Route 110, south along Route 110 to Route 15, north along Route 15 to the Milford Parkway, south along the Milford Parkway to I–95, north along I–95 to the intersection with the east shore of the Quinnipiac River, south to the mouth of the Quinnipiac River and then south along the eastern shore of New Haven Harbor to the Long Island Sound.

Atlantic Flyway Resident Population (AFRP) Unit: Remainder of the State not included in AP and NAP Units.

South Zone: Same as for ducks.

Maine

North NAP–H Zone: Same as North Zone for ducks.

Coastal NAP–L Zone: Same as Coastal Zone for ducks.

South NAP–H Zone: Same as South Zone for ducks.

Maryland

Early Canada Goose Seasons

Eastern Unit: Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; and that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State line.

Western Unit: Allegany, Baltimore, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington Counties and that part of Anne Arundel County west of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County west of Route 3 and Route 301; and that part of Charles County west of Route 301 to the Virginia State line.

Regular Seasons

Resident Population (RP) Zone: Allegany, Frederick, Garrett, Montgomery, and Washington Counties; that portion of Prince George's County west of Route 3 and Route 301; that portion of Charles County west of Route 301 to the Virginia State line; and that portion of Carroll County west of Route 31 to the intersection of Route 97, and west of Route 97 to the Pennsylvania State line.

AP Zone: Remainder of the State.

Massachusetts

NAP Zone: Central and Coastal Zones (see duck zones).

AP Zone: The Western Zone (see duck zones).

Special Late Season Area: The Central Zone and that portion of the Coastal Zone (see duck zones) that lies north of the Cape Cod Canal, north to the New Hampshire State line.

New Hampshire

Same zones as for ducks.

New Jersey

AP Zone: North and South Zones (see duck zones).

NAP Zone: The Coastal Zone (see duck zones).

Special Late Season Area: In northern New Jersey, that portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with Route 94; then west along Route 94 to the toll bridge in Columbia; then north along the Pennsylvania State boundary in the Delaware River to the beginning point. In southern New Jersey, that portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to Route 70; then west along Route 70 to Route 206; then south along Route 206 to Route 536; then west along Route 536 to Route 322; then west along Route 322 to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to route 55; then south along Route 55 to Route 552 (Sherman Avenue); then west along Route 552 to Carmel Road; then south along Carmel Road to Route 49; then east along Route 49 to Route 555; then south along Route 555 to Route 553; then east along Route 553 to Route 649; then north along Route 649 to Route 670; then east along Route 670 to Route 47; then north along Route 47 to Route 548; then east along Route 548 to Route 49; then east along Route 49 to Route 50; then south along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

New York

Lake Champlain Goose Area: The same as the Lake Champlain Waterfowl Hunting Zone, which is that area of New York State lying east and north of a continuous line extending along Route 11 from the New York–Canada international boundary south to Route 9B, south along Route 9B to Route 9, south along Route 9 to Route 22 south of Keeseville, south along Route 22 to the west shore of South Bay along and around the shoreline of South Bay to Route 22 on the east shore of South Bay, southeast along Route 22 to Route 4, northeast along Route 4 to the New York–Vermont boundary.

Northeast Goose Area: The same as the Northeastern Waterfowl Hunting Zone, which is that area of New York State lying north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to Interstate 81, south along Interstate 81 to Route 31, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 22 at Greenwich Junction, north along Route 22 to Washington County Route 153, east along CR 153 to the New York–Vermont boundary, exclusive of the Lake Champlain Zone.

East Central Goose Area: That area of New York State lying inside of a continuous line extending from Interstate Route 81 in Cicero, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, west along Route 146 to Albany County Route 252, northwest along Route 252 to Schenectady County Route 131, north along Route 131 to Route 7, west along Route 7 to Route 10 at Richmondville, south on Route 10 to Route 23 at Stamford, west along Route 23 to Route 7 in Oneonta, southwest along Route 7 to Route 79 to Interstate Route 88 near Harpursville, west along Route 88 to Interstate Route 81, north along Route 81 to the point of beginning.

West Central Goose Area: That area of New York State lying within a continuous line beginning at the point where the northerly extension of Route 269 (County Line Road on the Niagara–Orleans County boundary) meets the international boundary with Canada, south to the shore of Lake Ontario at the eastern boundary of Golden Hill State Park, south along the extension of Route 269 and Route 269 to Route 104 at Jeddo, west along Route 104 to Niagara County Route 271, south along Route 271 to Route 31E at Middleport, south along Route 31E to Route 31, west along Route 31 to Griswold Street, south along Griswold Street to Ditch Road, south along Ditch Road to Foot Road, south along Foot Road to the north bank of Tonawanda Creek, west along the north bank of Tonawanda Creek to Route 93, south along Route 93 to Route 5, east along Route 5 to Crittenden–Murrays Corners Road, south on Crittenden–Murrays Corners Road to the NYS Thruway, east along the Thruway 90 to Route 98 (at Thruway Exit 48) in Batavia, south along Route 98 to Route 20, east along Route 20 to Route 19 in Pavilion Center, south along Route 19 to Route 63, southeast along Route 63 to Route 246, south along Route 246 to Route 39 in Perry, northeast along Route 39 to Route 20A, northeast along Route 20A to Route 20, east along Route 20 to Route 364 (near Canandaigua), south and east along Route 364 to Yates County Route 18 (Italy Valley Road), southwest along Route 18 to Yates County Route 34, east along Route 34 to Yates County Route 32, south along Route 32 to Steuben County Route 122, south along Route 122 to Route 53, south along Route 53 to Steuben County Route 74, east along Route 74 to Route 54A (near Pulteney), south along Route 54A to Steuben County Route 87, east along Route 87 to Steuben County Route 96, east along Route 96 to Steuben County Route 114, east along Route 114 to Schuyler County Route 23, east and southeast along Route 23 to Schuyler County Route 28, southeast along Route 28 to Route 409 at Watkins Glen, south along Route 409 to Route 14, south along Route 14 to Route 224 at Montour Falls, east along Route 224 to Route 228 in Odessa, north along Route 228 to Route 79 in Mecklenburg, east along Route 79 to Route 366 in Ithaca, northeast along Route 366 to Route 13, northeast along Route 13 to Interstate Route 81 in Cortland, north along Route 81 to the north shore of the Salmon River to shore of Lake Ontario, extending generally northwest in a straight line to the nearest point of the international boundary with Canada, south and west along the international boundary to the point of beginning.

Hudson Valley Goose Area: That area of New York State lying within a continuous line extending from Route 4 at the New York–Vermont boundary, west and south along Route 4 to Route 149 at Fort Ann, west on Route 149 to Route 9, south along Route 9 to Interstate Route 87 (at Exit 20 in Glens Falls), south along Route 87 to Route 29, west along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West

Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, southeast along Route 146 to Main Street in Altamont, west along Main Street to Route 156, southeast along Route 156 to Albany County Route 307, southeast along Route 307 to Route 85A, southwest along Route 85A to Route 85, south along Route 85 to Route 443, southeast along Route 443 to Albany County Route 301 at Clarksville, southeast along Route 301 to Route 32, south along Route 32 to Route 23 at Cairo, west along Route 23 to Joseph Chadderdon Road, southeast along Joseph Chadderdon Road to Hearts Content Road (Greene County Route 31), southeast along Route 31 to Route 32, south along Route 32 to Greene County Route 23A, east along Route 23A to Interstate Route 87 (the NYS Thruway), south along Route 87 to Route 28 (Exit 19) near Kingston, northwest on Route 28 to Route 209, southwest on Route 209 to the New York–Pennsylvania boundary, southeast along the New York–Pennsylvania boundary to the New York–New Jersey boundary, southeast along the New York–New Jersey boundary to Route 210 near Greenwood Lake, northeast along Route 210 to Orange County Route 5, northeast along Orange County Route 5 to Route 105 in the Village of Monroe, east and north along Route 105 to Route 32, northeast along Route 32 to Orange County Route 107 (Quaker Avenue), east along Route 107 to Route 9W, north along Route 9W to the south bank of Moodna Creek, southeast along the south bank of Moodna Creek to the New Windsor–Cornwall town boundary, northeast along the New Windsor–Cornwall town boundary to the Orange–Dutchess County boundary (middle of the Hudson River), north along the county boundary to Interstate Route 84, east along Route 84 to the Dutchess–Putnam County boundary, east along the county boundary to the New York–Connecticut boundary, north along the New York–Connecticut boundary to the New York–Massachusetts boundary, north along the New York–Massachusetts boundary to the New York–Vermont boundary, north to the point of beginning.

Eastern Long Island Goose Area (NAP High Harvest Area): That area of Suffolk County lying east of a continuous line extending due south from the New York–Connecticut boundary to the northernmost end of Roanoke Avenue in the Town of Riverhead; then south on Roanoke Avenue (which becomes County Route 73) to State Route 25; then west on Route 25 to Peconic Avenue; then south on Peconic Avenue to County Route (CR) 104 (Riverleigh Avenue); then south on CR 104 to CR 31 (Old Riverhead Road); then south on CR 31 to Oak Street; then south on Oak Street to Potunk Lane; then west on Stevens Lane; then south on Jessup Avenue (in Westhampton Beach) to Dune Road (CR 89); then due south to international waters.

Western Long Island Goose Area (RP Area): That area of Westchester County and its tidal waters southeast of Interstate Route 95 and that area of Nassau and Suffolk Counties lying west of a continuous line extending due south from the New York–Connecticut boundary to the northernmost end of Sound Road (just east of Wading River Marsh); then south on Sound Road to North Country Road; then west on North Country Road to Randall Road; then south on Randall Road to Route 25A, then west on Route 25A to the Sunken Meadow State Parkway; then south on the Sunken Meadow Parkway to the Sagtikos State Parkway; then south on the Sagtikos Parkway to the Robert Moses State Parkway; then south on the Robert Moses Parkway to its southernmost end; then due south to international waters.

Central Long Island Goose Area (NAP Low Harvest Area): That area of Suffolk County lying between the Western and Eastern Long Island Goose Areas, as defined above.

South Goose Area: The remainder of New York State, excluding New York City.

North Carolina

Northeast Zone: Includes the following counties or portions of counties: Bertie (that portion north and east of a line formed by NC 45 at the Washington County line to U.S. 17 in Midway, U.S. 17 in Midway to U.S. 13 in Windsor, U.S. 13 in Windsor to the Hertford County line), Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

RP Zone: Remainder of the State.

Pennsylvania

Resident Canada Goose Zone: All of Pennsylvania except for the SJBP Zone and area east of route SR 97 from the Maryland State Line to the intersection of SR 194, east of SR 194 to the intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, and south of I–80 to the New Jersey State line.

SJBP Zone: The area north of I–80 and west of I–79 including in the city of Erie west of Bay Front Parkway to and including the Lake Erie Duck zone (Lake Erie, Presque Isle, and the area within 150 yards of the Lake Erie shoreline).

AP Zone: The area east of route SR 97 from Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, south of I–80 to the New Jersey State line.

Rhode Island

Special Area for Canada Geese: Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

South Carolina

Canada Goose Area: Statewide except for the following area:

East of U.S. 301: That portion of Clarendon County bounded to the North by S–14–25, to the East by Hwy 260, and to the South by the markers delineating the channel of the Santee River.

West of U.S. 301: That portion of Clarendon County bounded on the North by S–14–26 extending southward to that portion of Orangeburg County bordered by Hwy 6.

Vermont

Same zones as for ducks.

Virginia

AP Zone: The area east and south of the following line—the Stafford County line from the Potomac River west to Interstate 95 at Fredericksburg, then south along Interstate 95 to Petersburg, then Route 460 (SE) to City of Suffolk, then south along Route 32 to the North Carolina line.

SJBP Zone: The area to the west of the AP Zone boundary and east of the following line: The ''Blue Ridge'' (mountain spine) at the West Virginia–Virginia Border (Loudoun County–Clarke County line) south to Interstate

64 (the Blue Ridge line follows county borders along the western edge of Loudoun–Fauquier–Rappahannock–Madison–Greene–Albemarle and into Nelson Counties), then east along Interstate Rte. 64 to Route 15, then south along Rte. 15 to the North Carolina line.

RP Zone: The remainder of the State west of the SJBP Zone.

Mississippi Flyway

Arkansas

Northwest Zone: Baxter, Benton, Boone, Carroll, Conway, Crawford, Faulkner, Franklin, Johnson, Logan, Madison, Marion, Newton, Perry, Pope, Pulaski, Searcy, Sebastian, Scott, Van Buren, Washington, and Yell Counties.

Remainder of State: That portion of the State outside of the Northwest Zone.

Illinois

Early Canada Goose Seasons

North September Canada Goose Zone: That portion of the State north of a line extending west from the Indiana border along Interstate 80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central September Canada Goose Zone: That portion of the State south of the North September Canada Goose Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South September Canada Goose Zone: That portion of the State south and east of a line extending west from the Indiana border along Interstate 70, south along U.S. Highway 45, to Illinois Route 13, west along Illinois Route 13 to Greenbriar Road, north on Greenbriar Road to Sycamore Road, west on Sycamore Road to N. Reed Station Road, south on N. Reed Station Road to Illinois Route 13, west along Illinois Route 13 to Illinois Route 127, south along Illinois Route 127 to State Forest Road (1025 N), west along State Forest Road to Illinois Route 3, north along Illinois Route 3 to the south bank of the Big Muddy River, west along the south bank of the Big Muddy River to the Mississippi River, west across the Mississippi River to the Missouri border.

South Central September Canada Goose Zone: The remainder of the State between the south border of the Central September Canada Goose Zone and the north border of the South September Canada Goose Zone.

Regular Seasons

North Zone: That portion of the State north of a line extending west from the Indiana border along Interstate 80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Goose Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South Zone: Same zone as for ducks.

South Central Zone: Same zone as for ducks.

Indiana

Same zones as for ducks.

Iowa

Early Canada Goose Seasons

Cedar Rapids/Iowa City Goose Zone: Includes portions of Linn and Johnson Counties bounded as follows: Beginning at the intersection of the west border of Linn County and Linn County Road E2W; then south and east along County Road E2W to Highway 920; then north along Highway 920 to County Road E16; then east along County Road E16 to County Road W58; then south along County Road W58 to County Road E34; then east along County Road E34 to Highway 13; then south along Highway 13 to Highway 30; then east along Highway 30 to Highway 1; then south along Highway 1 to Morse Road in Johnson County; then east along Morse Road to Wapsi Avenue; then south along Wapsi Avenue to Lower West Branch Road; then west along Lower West Branch Road to Taft Avenue; then south along Taft Avenue to County Road F62; then west along County Road F62 to Kansas Avenue; then north along Kansas Avenue to Black Diamond Road; then west on Black Diamond Road to Jasper Avenue; then north along Jasper Avenue to Rohert Road; then west along Rohert Road to Ivy Avenue; then north along Ivy Avenue to 340th Street; then west along 340th Street to Half Moon Avenue; then north along Half Moon Avenue to Highway 6; then west along Highway 6 to Echo Avenue; then north along Echo Avenue to 250th Street; then east on 250th Street to Green Castle Avenue; then north along Green Castle Avenue to County Road F12; then west along County Road F12 to County Road W30; then north along County Road W30 to Highway 151; then north along the Linn–Benton County line to the point of beginning.

Des Moines Goose Zone: Includes those portions of Polk, Warren, Madison, and Dallas Counties bounded as follows: Beginning at the intersection of Northwest 158th Avenue and County Road R38 in Polk County; then south along R38 to Northwest 142nd Avenue; then east along Northwest 142nd Avenue to Northeast 126th Avenue; then east along Northeast 126th Avenue to Northeast 46th Street; then south along Northeast 46th Street to Highway 931; then east along Highway 931 to Northeast 80th Street; then south along Northeast 80th Street to Southeast 6th Avenue; then west along Southeast 6th Avenue to Highway 65; then south and west along Highway 65 to Highway 69 in Warren County; then south along Highway 69 to County Road G24; then west along County Road G24 to Highway 28; then southwest along Highway 28 to 43rd Avenue; then north along 43rd Avenue to Ford Street; then west along Ford Street to Filmore Street; then west along Filmore Street to 10th Avenue; then south along 10th Avenue to 155th Street in Madison County; then west along 155th Street to Cumming Road; then north along Cumming Road to Badger Creek Avenue; then north along Badger Creek Avenue to County Road F90 in Dallas County; then east along County Road F90 to County Road R22; then north along County Road R22 to Highway 44; then east along Highway 44 to County Road R30; then north

along County Road R30 to County Road F31; then east along County Road F31 to Highway 17; then north along Highway 17 to Highway 415 in Polk County; then east along Highway 415 to Northwest 158th Avenue; then east along Northwest 158th Avenue to the point of beginning.

Cedar Falls/Waterloo Goose Zone: Includes those portions of Black Hawk County bounded as follows: Beginning at the intersection of County Roads C66 and V49 in Black Hawk County, then south along County Road V49 to County Road D38, then west along County Road D38 to State Highway 21, then south along State Highway 21 to County Road D35, then west along County Road D35 to Grundy Road, then north along Grundy Road to County Road D19, then west along County Road D19 to Butler Road, then north along Butler Road to County Road C57, then north and east along County Road C57 to U.S. Highway 63, then south along U.S. Highway 63 to County Road C66, then east along County Road C66 to the point of beginning.

Regular Seasons

Same zones as for ducks.

Louisiana

North Zone: That portion of the State north of the line from the Texas border at Hwy 190/12 east to Hwy 49, then south on Hwy 49 to I–10, then east on I–10 to I–12, then east on I–12 to I–10, then east on I–10 to the Mississippi State line.

South Zone: Remainder of the State.

Michigan

North Zone: Same as North duck zone.

Middle Zone: Same as Middle duck zone.

South Zone: Same as South duck zone.

Allegan County Game Management Unit (GMU): That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan 40 through the city of Allegan to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly along 46th Street to 109th Avenue, westerly along 109th Avenue to I–196 in Casco Township, then northerly along I–196 to the point of beginning.

Muskegon Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

Minnesota

Same zones as for ducks.

Missouri

Same zones as for ducks.

Ohio

Same zones as for ducks.

Tennessee

Reelfoot Zone: The lands and waters within the boundaries of Reelfoot Lake WMA only.

Remainder of State: The remainder of the State.

Wisconsin

Same zones as for ducks.

Central Flyway

Colorado (Central Flyway Portion)

Northern Front Range Area: All areas in Boulder, Larimer, and Weld Counties from the Continental Divide east along the Wyoming border to U.S. 85, south on U.S. 85 to the Adams County line, and all lands in Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Gilpin, and Jefferson Counties.

North Park Area: Jackson County.

South Park Area: Chaffee, Custer, Fremont, Lake, Park, and Teller Counties.

San Luis Valley Area: All of Alamosa, Conejos, Costilla, and Rio Grande Counties, and those portions of Saguache, Mineral, Hinsdale, Archuleta, and San Juan Counties east of the Continental Divide.

Remainder: Remainder of the Central Flyway portion of Colorado.

Eastern Colorado Late Light Goose Area: That portion of the State east of Interstate Highway 25.

Montana (Central Flyway Portion)

Zone 1: Same as Zone 1 for ducks and coots.

Zone 2: Same as Zone 2 for ducks and coots.

Nebraska

Dark Geese

Niobrara Unit: That area contained within and bounded by the intersection of the South Dakota State line and the eastern Cherry County line, south along the Cherry County line to the Niobrara River, east to the Norden Road, south on the Norden Road to U.S. Hwy 20, east along U.S. Hwy 20 to NE Hwy 14, north along NE Hwy 14 to NE Hwy 59 and County Road 872, west along County Road 872 to the Knox County Line, north along the Knox County Line to the South Dakota State line. Where the Niobrara River forms the boundary, both banks of the river are included in the Niobrara Unit.

East Unit: That area north and east of U.S. 81 at the Kansas–Nebraska State line, north to NE Hwy 91, east to U.S. 275, south to U.S. 77, south to NE 91, east to U.S. 30, east to the Nebraska–Iowa State line.

Platte River Unit: That area north and west of U.S. 81 at the Kansas–Nebraska State line, north to NE Hwy 91, west along NE 91 to NE 11, north to the Holt County line, west along the northern border of Garfield, Loup, Blaine, and Thomas Counties to the Hooker County line, south along the Thomas–Hooker County lines to the McPherson County line, east along the south border of Thomas County to the western line of Custer County, south along the Custer–Logan County line to NE 92, west to U.S. 83, north to NE 92, west to NE 61, south along NE 61 to NE 92, west along NE 92 to U.S. Hwy 26, south along U.S. Hwy 26 to Keith County Line, south along Keith County Line to the Colorado State line.

Panhandle Unit: That area north and west of Keith–Deuel County Line at the Nebraska–Colorado State line, north along the Keith County Line to U.S. Hwy 26, west to NE Hwy 92, east to NE Hwy 61, north along NE Hwy 61 to NE Hwy 2, west along NE 2 to the corner formed by Garden–Grant–Sheridan Counties, west along the north border of Garden, Morrill, and Scotts Bluff Counties to the intersection of the Interstate Canal, west to the Wyoming State line.

North-Central Unit: The remainder of the State.

Light Geese

Rainwater Basin Light Goose Area: The area bounded by the junction of NE Hwy 92 and NE Hwy 15, south along NE Hwy 15 to NE Hwy 4, west along NE Hwy 4 to U.S. Hwy 34, west along U.S. Hwy 34 to U.S. Hwy 283, north along U.S. Hwy 283 to U.S. Hwy 30, east along U.S. Hwy 30 to NE Hwy 92, east along NE Hwy 92 to the beginning.

Remainder of State: The remainder of Nebraska.

New Mexico (Central Flyway Portion)

Dark Geese

Middle Rio Grande Valley Unit: Sierra, Socorro, and Valencia Counties.

Remainder: The remainder of the Central Flyway portion of New Mexico.

North Dakota

Missouri River Canada Goose Zone: The area within and bounded by a line

starting where ND Hwy 6 crosses the South Dakota border; then north on ND Hwy 6 to I–94; then west on I–94 to ND Hwy 49; then north on ND Hwy 49 to ND Hwy 200; then west on ND Hwy 200; then north on ND Hwy 8 to the Mercer/McLean County line; then east following the county line until it turns south toward Garrison Dam; then east along a line (including Mallard Island) of Lake Sakakawea to U.S. Hwy 83; then south on U.S. Hwy 83 to ND Hwy 200; then east on ND Hwy 200 to ND Hwy 41; then south on ND Hwy 41 to U.S. Hwy 83; then south on U.S. Hwy 83 to I–94; then east on I–94 to U.S. Hwy 83; then south on U.S. Hwy 83 to the South Dakota border; then west along the South Dakota border to ND Hwy 6.

Western North Dakota Canada Goose Zone: Same as the High Plains Unit for ducks, mergansers and coots, excluding the Missouri River Canada Goose Zone.

Rest of State: Remainder of North Dakota.

South Dakota

Early Canada Goose Seasons

Special Early Canada Goose Unit: The Counties of Campbell, Clark, Codington, Day, Deuel, Grant, Hamlin, Marshall, Roberts, Walworth; that portion of Perkins County west of State Highway 75 and south of State Highway 20; that portion of Dewey County north of Bureau of Indian Affairs Road 8, Bureau of Indian Affairs Road 9, and the section of U.S. Highway 212 east of the Bureau of Indian Affairs Road 8 junction; that portion of Potter County east of U.S. Highway 83; that portion of Sully County east of U.S. Highway 83; portions of Hyde, Buffalo, Brule, and Charles Mix Counties north and east of a line beginning at the Hughes–Hyde County line on State Highway 34, east to Lees Boulevard, southeast to State Highway 34, east 7 miles to 350th Avenue, south to Interstate 90 on 350th Avenue, south and east on State Highway 50 to Geddes, east on 285th Street to U.S. Highway 281, and north on U.S. Highway 281 to the Charles Mix–Douglas County boundary; that portion of Bon Homme County north of State Highway 50; those portions of Yankton and Clay Counties north of a line beginning at the junction of State Highway 50 and 306th Street/County Highway 585 in Bon Homme County, east to U.S. Highway 81, then north on U.S. Highway 81 to 303rd Street, then east on 303rd Street to 444th Avenue, then south on 444th Avenue to 305th Street, then east on 305th Street/Bluff Road to State Highway 19, then south to State Highway 50 and east to the Clay/Union County Line; Aurora, Beadle, Brookings, Brown, Butte, Corson, Davison, Douglas, Edmunds, Faulk, Haakon, Hand, Hanson, Harding, Hutchinson, Jackson, Jerauld, Jones, Kingsbury, Lake, McCook, McPherson, Meade, Mellette, Miner, Moody, Oglala Lakota (formerly Shannon), Sanborn, Spink, Todd, Turner, and Ziebach Counties; and those portions of Minnehaha and Lincoln Counties outside of an area bounded by a line beginning at the junction of the South Dakota–Minnesota State line and Minnehaha County Highway 122 (254th Street) west to its junction with Minnehaha County Highway 149 (464th Avenue), south on Minnehaha County Highway 149 (464th Avenue) to Hartford, then south on Minnehaha County Highway 151 (463rd Avenue) to State Highway 42, east on State Highway 42 to State Highway 17, south on State Highway 17 to its junction with Lincoln County Highway 116 (Klondike Road), and east on Lincoln County Highway 116 (Klondike Road) to the South Dakota–Iowa State line, then north along the South Dakota–Iowa and South Dakota–Minnesota border to the junction of the South Dakota–Minnesota State line and Minnehaha County Highway 122 (254th Street).

Regular Seasons

Unit 1: Same as that for the September Canada goose season.

Unit 2: Remainder of South Dakota.

Unit 3: Bennett County.

Texas

Northeast Goose Zone: That portion of Texas lying east and north of a line beginning at the Texas–Oklahoma border at U.S. 81, then continuing south to Bowie and then southeasterly along U.S. 81 and U.S. 287 to I–35W and I–35 to the juncture with I–10 in San Antonio, then east on I–10 to the Texas–Louisiana border.

Southeast Goose Zone: That portion of Texas lying east and south of a line beginning at the International Toll Bridge at Laredo, then continuing north following I–35 to the juncture with I–10 in San Antonio, then easterly along I–10 to the Texas–Louisiana border.

West Goose Zone: The remainder of the State.

Wyoming (Central Flyway Portion)

Dark Geese

Zone G1: Big Horn, Converse, Hot Springs, Natrona, Park, and Washakie Counties.

Zone G1A: Goshen and Platte Counties.

Zone G2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone G3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

Zone G4: Fremont County excluding those portions south or west of the Continental Divide.

Pacific Flyway

Arizona

Same zones as for ducks.

California

Northeastern Zone: That portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California–Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to main street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California–Nevada State line; north along the California–Nevada State line to the junction of the California–Nevada–Oregon State lines west along the California–Oregon State line to the point of origin.

Klamath Basin Special Management Area: Beginning at the intersection of Highway 161 and Highway 97; east on Highway 161 to Hill Road; south on Hill Road to N Dike Road West Side; east on N Dike Road West Side until the junction of the Lost River; north on N Dike Road West Side until the Volcanic Legacy Scenic Byway; east on Volcanic Legacy Scenic Byway until N Dike Road East Side; south on the N Dike Road East Side; continue east on N Dike Road East Side to Highway 111; south on Highway 111/Great Northern Road to Highway 120/Highway 124; west on Highway 120/Highway 124 to Hill Road; south on Hill Road until Lairds Camp Road; west on Lairds Camp Road until Willow Creek; west and south on Willow Creek to Red Rock Road; west on Red Rock Road until Meiss Lake Road/Old State Highway; north on Meiss Lake Road/Old State Highway to

Highway 97; north on Highway 97 to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line from the intersection of Highway 95 with the California–Nevada State line; south on Highway 95 through the junction with Highway 40; south on Highway 95 to Vidal Junction; south through the town of Rice to the San Bernardino–Riverside County line on a road known as ''Aqueduct Road'' also known as Highway 62 in San Bernardino County; southwest on Highway 62 to Desert Center Rice Road; south on Desert Center Rice Road/Highway 177 to the town of Desert Center; east 31 miles on Interstate 10 to its intersection with Wiley Well Road; south on Wiley Well Road to Wiley Well; southeast on Milpitas Wash Road to the Blythe, Brawley, Davis Lake intersections; south on Blythe Ogilby Road also known as County Highway 34 to its intersection with Ogilby Road; south on Ogilby Road to its intersection with Interstate 8; east 7 miles on Interstate 8 to its intersection with the Andrade-Algodones Road/ Highway 186; south on Highway 186 to its intersection with the U.S.–Mexico border at Los Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River zone) south and east of a line beginning at the mouth of the Santa Maria River at the Pacific Ocean; east along the Santa Maria River to where it crosses Highway 101–166 near the City of Santa Maria; north on Highway 101–166; east on Highway 166 to the junction with Highway 99; south on Highway 99 to the junction of Interstate 5; south on Interstate 5 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to where it intersects Highway 178 at Walker Pass; east on Highway 178 to the junction of Highway 395 at the town of Inyokern; south on Highway 395 to the junction of Highway 58; east on Highway 58 to the junction of Interstate 15; east on Interstate 15 to the junction with Highway 127; north on Highway 127 to the point of intersection with the California–Nevada State line.

Imperial County Special Management Area: The area bounded by a line beginning at Highway 86 and the Navy Test Base Road; south on Highway 86 to the town of Westmoreland; continue through the town of Westmoreland to Route S26; east on Route S26 to Highway 115; north on Highway 115 to Weist Road; north on Weist Road to Flowing Wells Road; northeast on Flowing Wells Road to the Coachella Canal; northwest on the Coachella Canal to Drop 18; a straight line from Drop 18 to Frink Road; south on Frink Road to Highway 111; north on Highway 111 to Niland Marina Road; southwest on Niland Marina Road to the old Imperial County boat ramp and the water line of the Salton Sea; from the water line of the Salton Sea, a straight line across the Salton Sea to the Salinity Control Research Facility and the Navy Test Base Road; southwest on the Navy Test Base Road to the point of beginning.

Balance of State Zone: The remainder of California not included in the Northeastern, Colorado River, and Southern Zones.

North Coast Special Management Area: Del Norte and Humboldt Counties.

Sacramento Valley Special Management Area: That area bounded by a line beginning at Willows south on I–5 to Hahn Road; easterly on Hahn Road and the Grimes–Arbuckle Road to Grimes; northerly on CA 45 to the junction with CA 162; northerly on CA 45/162 to Glenn; and westerly on CA 162 to the point of beginning in Willows.

Colorado (Pacific Flyway Portion)

Same zones as for ducks.

Idaho

Canada Geese and Brant

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties.

Zone 3: Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Cassia, Clearwater, Custer, Elmore, Franklin, Gem, Gooding, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Shoshone, Twin Falls, and Washington Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Bear Lake County; Bingham County within the Blackfoot Reservoir drainage; and Caribou County, except that portion within the Fort Hall Indian Reservation.

Zone 5: Valley County.

White-Fronted Geese

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 3: Adams, Benewah, Blaine, Bonner, Boundary, Camas, Clearwater, Custer, Franklin, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Oneida, and Shoshone Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

Zone 5: Valley County.

Light Geese

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County east of the west bank of the Snake River, west of the McTucker boat ramp access road, and east of the American Falls Reservoir bluff, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County below the American Falls Reservoir bluff, and within the Fort Hall Indian Reservation.

Zone 2: Franklin and Oneida Counties; Bingham County west of the west bank of the Snake River, east of the McTucker boat ramp access road, and west of the American Falls Reservoir bluff; Power County, except below the American Falls Reservoir bluff and those lands and waters within the Fort Hall Indian Reservation.

Zone 3: Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

Zone 4: Adams, Benewah, Blaine, Bonner, Boundary, Camas, Clearwater, Custer, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, and Shoshone Counties.

Zone 5: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 6: Valley County.

Nevada

Same zones as for ducks.

New Mexico (Pacific Flyway Portion)

North Zone: The Pacific Flyway portion of New Mexico located north of I–40.

South Zone: The Pacific Flyway portion of New Mexico located south of I–40.

Oregon

Northwest Permit Zone: Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties.

Lower Columbia/N. Willamette Valley Management Area: Those portions of Clatsop, Columbia, Multnomah, and Washington Counties within the Northwest Special Permit Zone.

Tillamook County Management Area: That portion of Tillamook County beginning at the point where Old Woods Road crosses the south shores of Horn Creek, north on Old Woods Road to Sand Lake Road at Woods, north on Sand Lake Road to the intersection with McPhillips Drive, due west (~200 yards) from the intersection to the Pacific coastline, south along the Pacific coastline to a point due west of the western end of Pacific Avenue in Pacific City, east from this point (~250 yards) to Pacific Avenue, east on Pacific Avenue to Brooten Road, south and then east on Brooten Road to Highway 101, north on Highway 101 to Resort Drive, north on Resort Drive to a point due west of the south shores of Horn Creek at its confluence with the Nestucca River, due east (~80 yards) across the Nestucca River to the south shores of Horn Creek, east along the south shores of Horn Creek to the point of beginning.

Southwest Zone: Those portions of Douglas, Coos, and Curry Counties east of Highway 101, and Josephine and Jackson Counties.

South Coast Zone: Those portions of Douglas, Coos, and Curry Counties west of Highway 101.

Eastern Zone: Baker, Crook, Deschutes, Gilliam, Grant, Hood River, Jefferson, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, and Wheeler Counties.

Klamath County Zone: Klamath County.

Harney and Lake County Zone: Harney and Lake Counties.

Malheur County Zone: Malheur County.

Utah

East Box Elder County Zone: Boundary begins at the intersection of the eastern boundary of Public Shooting Grounds Waterfowl Management Area and SR–83 (Promontory Road); east along SR–83 to I–15; south on I–15 to the Perry access road; southwest along this road to the Bear River Bird Refuge boundary; west, north, and then east along the refuge boundary until it intersects the Public Shooting Grounds Waterfowl Management Area boundary; east and north along the Public Shooting Grounds Waterfowl Management Area boundary to SR–83.

Wasatch Front Zone: Boundary begins at the Weber–Box Elder County line at I–15; east along Weber County line to U.S.–89; south on U.S.–89 to I–84; east and south on I–84 to I–80; south on I–80 to U.S.–189; south and west on U.S.–189 to the Utah County line; southeast and then west along this line to the Tooele County line; north along the Tooele County line to I–80; east on I–80 to Exit 99; north from Exit 99 along a direct line to the southern tip of Promontory Point and Promontory Road; east and north along this road to the causeway separating Bear River Bay from Ogden Bay; east on this causeway to the southwest corner of Great Salt Lake Mineral Corporations (GSLMC) west impoundment; north and east along GSLMC's west impoundment to the northwest corner of the impoundment; north from this point along a direct line to the southern boundary of Bear River Migratory Bird Refuge; east along this southern boundary to the Perry access road; northeast along this road to I–15; south along I–15 to the Weber–Box Elder County line.

Southern Zone: Boundary includes Beaver, Carbon, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Piute, San Juan, Sanpete, Sevier, Washington, and Wayne Counties, and that part of Tooele County south of I–80.

Northern Zone: The remainder of Utah not included in the East Box Elder County, Wasatch Front, and Southern Zones.

Washington

Area 1: Skagit, Island, and Snohomish Counties.

Area 2 Inland (Southwest Permit Zone): Clark, Cowlitz, and Wahkiakum Counties, and that portion of Grays Harbor County east of Highway 101

Area 2 Coastal (Southwest Permit Zone): Pacific County and that portion of Grays Harbor County west of Highway 101.

Area 3: All areas west of the Pacific Crest Trail and west of the Big White Salmon River that are not included in Areas 1, 2A, and 2B.

Area 4: Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5: All areas east of the Pacific Crest Trail and east of the Big White Salmon River that are not included in Area 4.

Brant

Pacific Flyway

California

Northern Zone: Del Norte, Humboldt, and Mendocino Counties.

Balance of State Zone: The remainder of the State not included in the Northern Zone.

Washington

Puget Sound Zone: Clallam, Skagit, and Whatcom Counties.

Coastal Zone: Pacific County.

Swans

Central Flyway

South Dakota

Open Area: Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Campbell, Clark, Codington, Davison, Day, Deuel, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hyde, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, and Walworth Counties.

Pacific Flyway

Idaho

Open Area: Benewah, Bonner, Boundary, and Kootenai Counties.

Montana (Pacific Flyway Portion)

Open Area: Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287–89.

Nevada

Open Area: Churchill, Lyon, and Pershing Counties.

Utah

Open Area: Those portions of Box Elder, Weber, Davis, Salt Lake, and Toole Counties lying west of I–15, north of I–80, and south of a line beginning from the Forest Street exit to the Bear River National Wildlife Refuge boundary; then north and west along the Bear River National Wildlife Refuge boundary to the farthest west boundary of the Refuge; then west along a line to Promontory Road; then north on Promontory Road to the intersection of SR 83; then north on SR 83 to I–84; then north and west on I–84 to State Hwy 30; then west on State Hwy 30 to the Nevada–Utah State line; then south on the Nevada–Utah State line to I–80.

Doves

Alabama

South Zone: Baldwin, Barbour, Coffee, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone: Remainder of the State.

Florida

Northwest Zone: The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone: The remainder of the State.

Louisiana

North Zone: That portion of the State north of a line extending east from the Texas border along State Highway 12 to U.S. Highway 190, east along U.S. 190 to Interstate Highway 12, east along Interstate Highway 12 to Interstate Highway 10, then east along Interstate Highway 10 to the Mississippi border.

South Zone: The remainder of the State.

Mississippi

North Zone: That portion of the State north and west of a line extending west from the Alabama State line along U.S. Highway 84 to its junction with State Highway 35, then south along State Highway 35 to the Louisiana State line.

South Zone: The remainder of Mississippi.

Texas

North Zone: That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I–10 at Fort Hancock; east along I–10 to I–20; northeast along I–20 to I–30 at Fort Worth; northeast along I–30 to the Texas–Arkansas State line.

Central Zone: That portion of the State lying between the North and South Zones.

South Zone: That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to State Loop 1604 west of San Antonio; then south, east, and north along Loop 1604 to I–10 east of San Antonio; then east on I–10 to Orange, Texas.

Special White-winged Dove Area: Same as the South Zone.

Band-tailed Pigeons

California

North Zone: Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone: The remainder of the State not included in the North Zone.

New Mexico

North Zone: North of a line following U.S. 60 from the Arizona State line east to I–25 at Socorro and then south along I–25 from Socorro to the Texas State line.

South Zone: The remainder of the State not included in the North Zone.

Washington

Western Washington: The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Woodcock

New Jersey

North Zone: That portion of the State north of NJ 70.

South Zone: The remainder of the State.

Sandhill Cranes

Mississippi Flyway

Alabama

Open Area: That area north of Interstate 20 from the Georgia State line to the interchange with Interstate 65, then east of Interstate 65 to the interchange with Interstate 22, then north of Interstate 22 to the Mississippi State line.

Minnesota

Northwest Zone: That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Tennessee

Southeast Crane Zone: That portion of the State south of Interstate 40 and east of State Highway 56.

Remainder of State: That portion of Tennessee outside of the Southeast Crane Zone.

Central Flyway

Colorado

Open Area: The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande, and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas

Central Zone: That portion of the State within an area bounded by a line beginning where I–35 crosses the Kansas–Oklahoma border, then north on I–35 to Wichita, then north on I–135 to Salina, then north on U.S. 81 to the Nebraska border, then west along the Kansas/Nebraska border to its intersection with Hwy 283, then south on Hwy 283 to the intersection with Hwy 18/24, then east along Hwy 18 to Hwy 183, then south on Hwy 183 to Route 1, then south on Route 1 to the Oklahoma border, then east along the Kansas/Oklahoma border to where it crosses I–35.

West Zone: That portion of the State west of the western boundary of the Central Zone.

Montana

Regular Season Open Area: The Central Flyway portion of the State except for that area south and west of Interstate 90, which is closed to sandhill crane hunting.

Special Season Open Area: Carbon County.

New Mexico

Regular-Season Open Area: Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Special Season Open Areas

Middle Rio Grande Valley Area: The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Estancia Valley Area: Those portions of Santa Fe, Torrance, and Bernallilo Counties within an area bounded on the west by New Mexico Highway 55 beginning at Mountainair north to NM 337, north to NM 14, north to I–25; on the north by I–25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to NM 55 in Mountainair.

Southwest Zone: Area bounded on the south by the New Mexico–Mexico border; on the west by the New Mexico–Arizona border north to Interstate 10; on the north by Interstate 10 east to U.S. 180, north to NM 26, east to NM 27,

north to NM 152, and east to Interstate 25; on the east by Interstate 25 south to Interstate 10, west to the Luna County line, and south to the New Mexico–Mexico border.

North Dakota

Area 1: That portion of the State west of U.S. 281.

Area 2: That portion of the State east of U.S. 281.

Oklahoma

Open Area: That portion of the State west of I–35.

South Dakota

Open Area: That portion of the State lying west of a line beginning at the South Dakota–North Dakota border and State Highway 25, south on State Highway 25 to its junction with State Highway 34, east on State Highway 34 to its junction with U.S. Highway 81, then south on U.S. Highway 81 to the South Dakota–Nebraska border.

Texas

Zone A: That portion of Texas lying west of a line beginning at the international toll bridge at Laredo, then northeast along U.S. Highway 81 to its junction with Interstate Highway 35 in Laredo, then north along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 at Junction, then north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas–Oklahoma State line.

Zone B: That portion of Texas lying within boundaries beginning at the junction of U.S. Highway 81 and the Texas–Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, then southeast along U.S. Highway 287 to its junction with Interstate Highway 35W in Fort Worth, then southwest along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 in the town of Junction, then north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas–Oklahoma State line, then south along the Texas–Oklahoma State line to the south bank of the Red River, then eastward along the vegetation line on the south bank of the Red River to U.S. Highway 81.

Zone C: The remainder of the State, except for the closed areas.

Closed areas:

A. That portion of the State lying east and north of a line beginning at the junction of U.S. Highway 81 and the Texas–Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, then southeast along U.S. Highway 287 to its junction with I–35W in Fort Worth, then southwest along I–35 to its junction with U.S. Highway 290 East in Austin, then east along U.S. Highway 290 to its junction with Interstate Loop 610 in Harris County, then south and east along Interstate Loop 610 to its junction with Interstate Highway 45 in Houston, then south on Interstate Highway 45 to State Highway 342, then to the shore of the Gulf of Mexico, and then north and east along the shore of the Gulf of Mexico to the Texas–Louisiana State line.

B. That portion of the State lying within the boundaries of a line beginning at the Kleberg–Nueces County line and the shore of the Gulf of Mexico, then west along the County line to Park Road 22 in Nueces County, then north and west along Park Road 22 to its junction with State Highway 358 in Corpus Christi, then west and north along State Highway 358 to its junction with State Highway 286, then north along State Highway 286 to its junction with Interstate Highway 37, then east along Interstate Highway 37 to its junction with U.S. Highway 181, then north and west along U.S. Highway 181 to its junction with U.S. Highway 77 in Sinton, then north and east along U.S. Highway 77 to its junction with U.S. Highway 87 in Victoria, then south and east along U.S. Highway 87 to its junction with State Highway 35 at Port Lavaca, then north and east along State Highway 35 to the south end of the Lavaca Bay Causeway, then south and east along the shore of Lavaca Bay to its junction with the Port Lavaca Ship Channel, then south and east along the Lavaca Bay Ship Channel to the Gulf of Mexico, and then south and west along the shore of the Gulf of Mexico to the Kleberg–Nueces County line.

Wyoming

Area 7: Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Area 4: All lands within the Bureau of Reclamation's Riverton and Boysen Unit boundaries; those lands within Boysen State Park south of Cottonwood Creek, west of Boysen Reservoir, and south of U.S. Highway 20–26; and all non-Indian owned fee title lands within the exterior boundaries of the Wind River Reservation, excluding those lands within Hot Springs County.

Area 6: Big Horn, Hot Springs, Park, and Washakie Counties.

Area 8: Johnson, Natrona, and Sheridan Counties.

Pacific Flyway

Arizona

Zone 1: Beginning at the junction of the New Mexico State line and U.S. Hwy 80; south along the State line to the U.S.–Mexico border; west along the border to the San Pedro River; north along the San Pedro River to the junction with Arizona Hwy 77; northerly along Arizona Hwy 77 to the Gila River; northeast along the Gila River to the San Carlos Indian Reservation boundary; south then east and north along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to the 352 exit on I–10; east on I–10 to Bowie-Apache Pass Road; southerly on the Bowie-Apache Pass Road to Arizona Hwy 186; southeasterly on Arizona Hwy 186 to Arizona Hwy 181; south on Arizona Hwy 181 to the West Turkey Creek-Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Road; easterly on Rucker Canyon Road to the Tex Canyon Road; southerly on Tex Canyon Road to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico State line.

Zone 2: Beginning at I–10 and the New Mexico State line; north along the State line to Arizona Hwy 78; southwest on Arizona Hwy 78 to U.S. Hwy 191; northwest on U.S. Hwy 191 to Clifton; westerly on the Lower Eagle Creek Road (Pump Station Road) to Eagle Creek; northerly along Eagle Creek to the San Carlos Indian Reservation boundary; southerly and west along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to I–10; easterly on I–10 to the New Mexico State line.

Zone 3: Beginning on I–10 at the New Mexico State line; westerly on I–10 to the Bowie-Apache Pass Road; southerly on the Bowie-Apache Pass Road to AZ Hwy 186; southeast on AZ Hwy 186 to AZ Hwy 181; south on AZ Hwy 181 to the West Turkey Creek–Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Road; easterly on the Rucker Canyon Road to Tex Canyon Road; southerly on Tex Canyon Road to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico State line; north along the State line to I–10.

Idaho

Area 1: All of Bear Lake County and all of Caribou County except that

portion lying within the Grays Lake Basin.

Area 2: All of Teton County except that portion lying west of State Highway 33 and south of Packsaddle Road (West 400 North) and north of the North Cedron Road (West 600 South) and east of the west bank of the Teton River.

Area 3: All of Fremont County except the Chester Wetlands Wildlife Management Area.

Area 4: All of Jefferson County.

Area 5: All of Bannock County east of Interstate 15 and south of U.S. Highway 30; and all of Franklin County.

Area 6: That portion of Oneida County within the boundary beginning at the intersection of the Idaho–Utah border and Old Highway 191, then north on Old Highway 191 to 1500 S, then west on 1500 S to Highway 38, then west on Highway 38 to 5400 W, then south on 5400 W to Pocatello Valley Road, then west and south on Pocatello Valley Road to 10000 W, then south on 10000 W to the Idaho–Utah border, then east along the Idaho–Utah border to the beginning point.

Montana

Zone 1: Those portions of Deer Lodge County lying within the following described boundary: Beginning at the intersection of I–90 and Highway 273, then westerly along Highway 273 to the junction of Highway 1, then southeast along said highway to Highway 275 at Opportunity, then east along said highway to East Side County road, then north along said road to Perkins Lane, then west on said lane to I–90, then north on said interstate to the junction of Highway 273, the point of beginning. Except for sections 13 and 24, T5N, R10W; and Warm Springs Pond number 3.

Zone 2: That portion of the Pacific Flyway, located in Powell County lying within the following described boundary: Beginning at the junction of State Routes 141 and 200, then west along Route 200 to its intersection with the Blackfoot River at Russell Gates Fishing Access Site (Powell–Missoula County line), then southeast along said river to its intersection with the Ovando–Helmville Road (County Road 104) at Cedar Meadows Fishing Access Site, then south and east along said road to its junction with State Route 141, then north along said route to its junction with State Route 200, the point of beginning.

Zone 3: Beaverhead, Gallatin, Jefferson, and Madison Counties.

Zone 4: Broadwater County.

Utah

Cache County: Cache County.

East Box Elder County: That portion of Box Elder County beginning on the Utah–Idaho State line at the Box Elder–Cache County line; west on the State line to the Pocatello Valley County Road; south on the Pocatello Valley County Road to I–15; southeast on I–15 to SR–83; south on SR–83 to Lamp Junction; west and south on the Promontory Point County Road to the tip of Promontory Point; south from Promontory Point to the Box Elder–Weber County line; east on the Box Elder–Weber County line to the Box Elder–Cache County line; north on the Box Elder–Cache County line to the Utah–Idaho State line.

Rich County: Rich County.

Uintah County: Uintah County.

Wyoming

Area 1: All of the Bear River and Ham's Fork River drainages in Lincoln County.

Area 2: All of the Salt River drainage in Lincoln County south of the McCoy Creek Road.

Area 3: All lands within the Bureau of Reclamation's Eden Project in Sweetwater County.

Area 5: Uinta County.

All Migratory Game Birds in Alaska

North Zone: State Game Management Units 11–13 and 17–26.

Gulf Coast Zone: State Game Management Units 5–7, 9, 14–16, and 10 (Unimak Island only).

Southeast Zone: State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone: State Game Management Unit 10 (except Unimak Island).

Kodiak Zone: State Game Management Unit 8.

All Migratory Game Birds in the Virgin Islands

Ruth Cay Closure Area: The island of Ruth Cay, just south of St. Croix.

All Migratory Game Birds in Puerto Rico

Municipality of Culebra Closure Area: All of the municipality of Culebra.

Desecheo Island Closure Area: All of Desecheo Island.

Mona Island Closure Area: All of Mona Island.

El Verde Closure Area: Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for 1 kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas: All of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: Beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of the beginning.

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Part III

Department of Labor

Employment and Training Administration

20 CFR Parts 617 and 618

29 CFR 90

Trade Adjustment Assistance for Workers; Final Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 617 and 618

29 CFR Part 90

[Docket No. ETA–2019–0009]

RIN 1205–AB78

Trade Adjustment Assistance for Workers

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department) is expanding protection and support for U.S. workers adversely impacted by foreign trade by revising its Trade Adjustment Assistance (TAA) for Workers program (TAA Program) regulations. This final rule will, among other improvements, make it easier for workers to qualify for job search and relocation allowances, increase those allowances in line with the statute, expand training to include more flexibility for apprenticeships, ensure workers have access to individualized assessments, make it easier for groups of workers to apply for benefits, and offer assistance to additional categories of workers, including by helping workers in jobs threatened by foreign trade to receive training and support to transition to new employment.

DATES: This final rule is effective September 21, 2020.

FOR FURTHER INFORMATION CONTACT: Norris Tyler, Administrator, Office of Trade Adjustment Assistance, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, Room N–5428, Washington, DC 20210, Telephone: 202–693–3560 (voice) (this is not a toll-free number), 1–888–365–6822, or 1–877–889–5627 (Telecommunications Device for the Deaf).

SUPPLEMENTARY INFORMATION:

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I. Acronyms and Abbreviations

AAIW(s) adversely affected incumbent worker(s)
AAW(s) adversely affected worker(s)
ATAA Alternative Trade Adjustment Assistance
EB Extended Benefits
ECI Employment Cost Indices
ETP(s) eligible training provider(s)
FEIN(s) Federal Employment Identification Number(s)
FTR Federal Travel Regulation
HCTC Health Coverage Tax Credit
IC(s) information collection(s)
ICR(s) information collection request(s)
IEP(s) individual employment plan(s)
ITA(s) Individual Training Account(s)
ITC International Trade Commission
JSP job search program
JTPA Job Training Partnership Act
local area(s) local workforce development area(s)
LWDB(s) local workforce development board(s)
MIS management information system
NAA National Apprenticeship Act
OES Occupational Employment Statistics
OJT on-the-job training
OTAA Office of Trade Adjustment Assistance
PIRL Participant Individual Record Layout
RTAA Reemployment Trade Adjustment Assistance
SNAP Supplemental Nutrition Assistance Program
TAA Trade Adjustment Assistance
TAA Program collective reference to the following three programs: TAA for Workers program, ATAA, and RTAA
TAAEA Trade Adjustment Assistance Extension Act of 2011
TAARA 2002 Trade Adjustment Assistance Reform Act of 2002
TAARA 2015 Trade Adjustment Assistance Reauthorization Act of 2015
TaOA Training and Other Activities
TEGL(s) Training and Employment Guidance Letter(s)
TGAAA Trade and Globalization Adjustment Assistance Act of 2009
the Act chapter 2 of title II of the Trade Act of 1974, as amended
TRA Trade Readjustment Allowances
UI Unemployment Insurance
UMRA Unfunded Mandates Reform Act of 1995
USCIT United States Court of International Trade
WARN Worker Adjustment and Retraining Notice
WBA(s) weekly benefit amount(s)
WIA Workforce Investment Act of 1998
WIOA Workforce Innovation and Opportunity Act

II. Background

A. Introduction to the Trade Adjustment Assistance Program

On November 7, 2019, the Department published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (84 FR 60150), proposing to amend 20 CFR parts 617 (Trade Adjustment Assistance for Workers under the Trade Act of 1974) and 618 (Trade Adjustment Assistance under the Trade Act of 1974, as Amended) to expand protection and support for U.S. workers adversely impacted by foreign trade.

The Department is streamlining and consolidating three separate parts of the CFR that contain TAA Program regulations (20 CFR parts 617 and 618, 29 CFR part 90) into a single part (20 CFR part 618) with nine subparts. In addition, the revisions will codify into regulation elements of the most recent TAA Program amendments, the Trade Adjustment Assistance Reauthorization Act of 2015 (Pub. L. 114–27, title IV) (TAARA 2015). This final rule also incorporates operating instructions issued via administrative guidance into the TAA Program regulations, with some refinements. Further, the revisions align the TAA Program regulations with the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113–128), the 2014 comprehensive legislation that reauthorized the public workforce system.

This final rule increases efficiency and flexibility for States and trade-affected workers. Because subpart B (Petitions, Investigations, and Determinations) of this final rule expressly permits workers employed by a leasing or staffing agency (termed ‘‘staffed workers’’) to be members of a worker group, even if they are not mentioned specifically within the determination document, the

Department anticipates a substantial reduction in the number of requests to amend certifications. The Department also is increasing flexibility in subpart D (Job Search and Relocation Allowances) by making it easier for adversely affected workers (AAWs) to qualify for a job search allowance and ensuring that workers who qualify for relocation allowances are finding comparable or better paying jobs. Subpart F (Training Services) clarifies that work-based training includes apprenticeships for all or part of a trade-affected worker's training program. It also establishes a regulatory framework to provide assistance to workers who are currently employed but threatened with job loss resulting from foreign trade, thereby enabling such workers to retrain and seek new employment before job separation occurs. In subpart H (Administration by Applicable State Agencies), the Department is extending flexibility by removing the requirement that only State merit staff can provide employment and case management services using TAA Program funding, granting States more flexibility with program operations and creating better alignment with WIOA.

This final rule seeks to improve service delivery, and thereby serve trade-affected workers more effectively, by including service-delivery requirements that align with data-tested methods. Subpart A (General) better defines certain investigations-based terms to add consistency at both the State and Federal level and improve program operations, including reducing burden and workload for TAA Program investigative reconsiderations and appeals related to these terms. In addition, the Department is helping provide positive outcomes for each trade-affected worker by including new data-driven requirements for assessments and individual employment plans (IEPs) in subpart C (Employment and Case Management Services).

In subpart E, this final rule implements statutory provisions for Reemployment Trade Adjustment Assistance (RTAA) and incorporates administrative guidance previously issued by the Department, since no regulations covering the RTAA program existed. Subpart G implements several statutory changes to Trade Readjustment Allowances (TRA), including establishing deadlines to enroll in training, reducing the types of available waivers, allowing an election between Unemployment Insurance (UI) and TRA, and allowing AAWs to earn up to their weekly benefit amount (WBA) without penalty. In addition, subpart I (Allocation of Funds to States for Training and Other Activities) replaces the term ''training'' with ''Training and Other Activities'' (TaOA) to reflect the additional benefits and services covered by such funding.

This final rule provides a consolidated, authoritative set of rules to guide Federal and State officials in implementing the Trade Act of 1974 (Pub. L. 93–618), as amended (the Act). This streamlining will also clarify the Department's interpretation of law for courts.

Subpart B (Petitions, Investigations, and Determinations) will produce cost savings by eliminating the two-step process for reconsiderations, which will reduce the processing time involved for all reconsiderations, and by clarifying ''final determinations'' for judicial appeals, which will reduce the number of those appeals. Subpart H (Administration by Applicable State Agencies) will also produce cost savings by revising the merit staff requirements to allow States to charge time for non-merit staff to TAA Program funds for the provision of employment and case management services. This final rule is considered to be an Executive Order (E.O.) 13771 deregulatory action. Details on the estimated cost savings of this final rule can be found in the rule's economic analysis.

The purpose of this final rule is to ensure that the TAA Program regulations are modernized to reflect the program's current operation and make needed improvements. The revisions also will provide clarity by eliminating confusing and overly technical language and update the TAA Program regulations by encouraging the use of paperless electronic mechanisms over paper-based methods.

An ever-changing global marketplace drives the 21st-century economy. For America to compete in the global economy, its workers need to have the skills and support to take advantage of new opportunities. The TAA Program bolsters America's competitiveness by helping American workers retrain and reenter the workforce.

B. Statutory and Regulatory History of the Trade Adjustment Assistance Program

The Act (codified at 19 U.S.C. 2271 *et seq.*), title II, chapter 2, established the TAA for Workers program and the RTAA program, as well as the predecessor to RTAA, the Alternative Trade Adjustment Assistance (ATAA) program.[1] These programs, collectively referred to as the TAA Program, assist U.S. workers who have lost or may lose their jobs as a result of foreign trade (*i.e.,* trade-affected workers). The TAA Program provides AAWs and adversely affected incumbent workers (AAIWs) with opportunities to obtain skills, credentials, resources, and support to help them become reemployed. TAA Program benefits and services under the TAARA 2015 amendments include employment and case management services; training; out-of-area job search and relocation allowances; income support through TRA; the RTAA wage supplement benefit for AAWs aged 50 or older who find qualifying reemployment; and, if available, eligibility for assistance with health care premium costs under the Health Coverage Tax Credit (HCTC),[2] which is administered by the Internal Revenue Service (IRS).

There are two steps for trade-affected workers to obtain program benefits and services. First, a group of workers must file a petition, or have a petition filed on its behalf, to determine worker-group eligibility. Upon receiving a petition, the Department initiates an investigation to determine whether the circumstances of the layoff meet the group-eligibility criteria established by section 222 of the Act. Second, if the Department finds the group eligible and certifies the petition, trade-affected workers in the worker group may individually apply to their State for TAA Program benefits and services. Under agreements between the Secretary of Labor (Secretary) and each Governor, the States determine individual eligibility based on the statutory criteria and provide the TAA Program benefits and services to trade-affected workers with Federal funds allocated by the Department for that purpose. The TAA Program is a required one-stop partner under WIOA. One-stop centers—branded as American Job Centers under WIOA—deliver workforce development services to job seekers and businesses nationwide.

Since 1975, the TAA Program has served over 2 million trade-affected U.S. workers. In Fiscal Year (FY) 2018, an estimated 76,920 workers became eligible for TAA Program benefits and services. Nearly 77 percent of trade-affected workers obtained employment within 6 months of completing the TAA Program.

Trade-affected workers come from a variety of backgrounds and industries, so they enter the program with a wide array of skills and experience. Most

[1] ATAA is largely unaddressed in the final rule because it was replaced by RTAA.

[2] The HCTC was due to expire on January 1, 2020, but has recently been extended to January 1, 2021.

trade-affected workers who enter the program, however, face similar challenges in obtaining reemployment. Trade-affected workers have no postsecondary degree typically, a median age of 52, and have a median tenure of 8.3 years of experience in adversely affected employment.[3] The TAA Program is designed to serve the needs of this unique population.

Congress has reauthorized and amended chapter 2, and thus the TAA Program, multiple times. The TAA Program was changed extensively by amendments in 1981 (Pub. L. 97–35, title XXV), 1984 (Pub. L. 98–369, sections 2671, 2672, 2673), 1986 (Pub. L. 99–272, title XIII, subtitle A, part 1), 1988 (Pub. L. 100–418, title I, subtitle D, part 3), and 1993 (Pub. L. 103–182, section 501 through 507). In 1987, the Department issued a final rule significantly revising the certification process in 29 CFR part 90 (52 FR 23403, June 19, 1987). In 1994, the Department issued a final rule significantly revising the TAA Program regulations in 20 CFR part 617 to implement the 1988 amendments (59 FR 906, Jan. 6, 1994).

In 2002, Congress reauthorized and amended the TAA Program in the Trade Adjustment Assistance Reform Act of 2002 (TAARA 2002) (Pub. L. 107–210). TAARA 2002 expanded the scope of the TAA Program, increased its benefit amounts, repealed the North American Free Trade Agreement Transitional Adjustment Assistance (or NAFTA–TAA) program, established the HCTC to subsidize private health-insurance costs for qualified workers, and created the ATAA program as a demonstration program.

The Department published two NPRMs in 2006, to implement the TAARA 2002 amendments (71 FR 50760, Aug. 25, 2006 and 71 FR 61618, Oct. 18, 2006). However, Congress in 2007 (Pub. L. 110–5), 2008 (Pub. L. 110–161), and 2009 (Pub. L. 111–8) prohibited the Department from further action until Congress reauthorized the TAA Program. The next reauthorization, the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA) (Pub. L. 111–5, div. B, title I, subtitle I), made such substantial amendments to the TAA Program that it rendered the 2006 NPRMs obsolete. The Department withdrew the NPRMs in 2009 (74 FR 27262, June 9, 2009).

TGAAA, part of the American Recovery and Reinvestment Act (Pub. L. 111–5), reauthorized and substantially amended the TAA Program. It expanded the program's benefits and the types of trade-affected workers the Department could certify. Section 1893 of TGAAA provided that most of the TGAAA amendments would expire on December 31, 2010. Congress later extended that expiration date by 6 weeks (Pub. L. 111–344).

The Department revised the TAA Program regulations in 2010, by adding a new 20 CFR part 618 (75 FR 16988, Apr. 2, 2010). The revisions addressed the allocation of TAA Program training funds to the States. The revisions also required, for the first time by regulation, that State administration of the TAA Program be performed by merit staff.

The Trade Adjustment Assistance Extension Act of 2011 (TAAEA), enacted in 2011, provided a balance between the expanded certification criteria and benefits and services provided under TGAAA, and the more limited provisions in TAARA 2002.

TAARA 2015 reauthorized the TAA Program through June 30, 2021. It primarily followed TAAEA, the 2011 law, with two exceptions. The amendments included capping funding for TaOA at $450 million per fiscal year and establishing new performance indicators to align with WIOA. TAARA 2015 reauthorized the RTAA and HCTC benefit programs. TAARA 2015 continued to grandfather earlier versions of the TAA Program for trade-affected workers who had been certified under TAARA 2002, TGAAA, and TAAEA. That is, a trade-affected worker who was a member of a worker group covered by a certification that was issued under TAARA 2002, TGAAA, or TAAEA continued to receive benefits and services available under the respective program eligibility criteria applicable to those earlier amendments.

C. Need for This Regulation

The TAA Program regulations were last updated in 1994, with only minor changes made in 2006,[4] 2007,[5] and 2010.[6] Since that time, multiple TAA Program legislative amendments have required various changes to the program, which the Department has addressed through administrative guidance. This final rule codifies in regulation program operations under the most recent amendments (TAARA 2015), including significant elements of TAA Program administrative guidance. This final rule was drafted to reflect how the TAA Program is currently operating and includes some adjustments that will improve the program. Once this final rule is effective, the Department will rescind redundant administrative guidance, as appropriate.

This final rule will help States and the public better understand the proper operation of the TAA Program. It will promote transparency by setting out, in binding regulation, the major principles by which the TAA Program operates, and it also will provide the public and courts with the Department's authoritative interpretation of the Act.

In addition, this final rule includes clarifications that draw upon the Department's expertise gained from decades of experience operating the TAA Program. For example, the Department's litigation experience has provided insight into parts of the TAA Program regulations that have needed clarification to ensure more effective, efficient, and consistent operations of the TAA Program throughout the United States. In addition, since 2009, the Department has had the benefit of real-time data on trade-affected workers participating in the TAA Program, the analysis of which has driven improvements to the provisions in this final rule.

This final rule also includes changes that align the TAA Program regulations with WIOA. For example, WIOA further integrated the TAA Program with the public workforce and education systems by affirming the TAA Program as a required partner in the one-stop delivery system. This final rule aligns with and references the WIOA regulations where appropriate. This final rule also removes outdated references to the Job Training Partnership Act (JTPA) and the Workforce Investment Act of 1998 (WIA).

D. General Comments Received on the Notice of Proposed Rulemaking

On November 7, 2019, the Department published an NPRM in the **Federal Register** (84 FR 60150), proposing to amend 20 CFR parts 617 (Trade Adjustment Assistance for Workers under the Trade Act of 1974) and 618 (Trade Adjustment Assistance under the Trade Act of 1974, as Amended) and 29 CFR part 90 to expand protection and support for U.S. workers adversely impacted by foreign trade. The NPRM invited written comments from the public concerning this proposed

[3] U.S. Department of Labor, Employment and Training Administration. (2019). ''Trade Adjustment Assistance for Workers Program: Fiscal Year 2018.'' Retrieved from: *https://www.doleta.gov/tradeact/docs/AnnualReport18.pdf.*

[4] 71 FR 35511 (June 21, 2006) (making technical amendments to update obsolete, nonsubstantive, or nomenclature references).

[5] 72 FR 37097 (July 9, 2007) (making minor changes to 29 CFR part 90).

[6] 75 FR 16988 (Apr. 2, 2010) (adding 20 CFR part 618 to include only subparts H and I relating to merit staffing of State administration and allocation of TAA Program training funds to States).

rulemaking through December 9, 2019. This 30-day comment period was later extended by 2 days (84 FR 67681), through December 11, 2019, because of a *regulations.gov* website outage that occurred on December 9, 2019. No commenters requested an extension of the comment period or otherwise expressed concern about the public's ability to participate in the rulemaking process. The comments received on the NPRM may be viewed at *https://www.regulations.gov* by entering docket number ETA–2019–0009.

The Department received comment submissions from 54 commenters, of which 45 submissions were unique and 9 were duplicates or not related to the subject of this rule. The commenters represented a range of stakeholders from the public and nonprofit sectors. Public sector commenters included State and local government agencies, local workforce development boards (LWDBs), and one-stop operators. Nonprofit sector commenters included public policy organizations, advocacy groups, national and local labor unions, and a trade association. Of the unique comments, nearly one third came from State government workforce agencies. The Department also received several comments from private citizens.

These comments are addressed in Section III (Section-by-Section Analysis) of this final rule. About half of the unique comments supported parts of the proposal but opposed others, while a smaller number conditioned their support for the proposal on the Department adopting certain changes in this final rule.

The NPRM notified the public that an additional docket (ETA–2019–0010) for comments related to the information collection (IC) discussed in Section V.D of the NPRM preamble (Paperwork Reduction Act) would remain open until January 6, 2020. The Department did not receive comments related to this IC in this docket. For further information on the IC, please see the Paperwork Reduction Act (PRA) section of this final rule (Section IV.D).

General Comments on the Proposed Rule

One commenter agreed with the anticipated improvements and benefits of the proposed rule that the Department set forth in the NPRM. One commenter stated that several of the proposed changes would positively strengthen local control of program development. Another commenter agreed that the proposal would help workers but expressed curiosity about how the rule would affect the economy if adopted. Several commenters sought guidance, unrelated to the proposal, on very specific programmatic scenarios related to their current workforce programs. One commenter expressed general concern that the proposed rule could disproportionately reduce benefits and services for rural AAWs. In contrast, another commenter said the proposed rule would help rural communities and areas with ''a strong presence of the blue-collar work force.''

None of these commenters provided specific, substantive comments on any particular part of the proposed rule or proposed regulatory text; therefore, these comments are not addressed in the Section-by-Section Analysis below.

One State workforce agency commented that the TAA Program needs updates to keep serving trade-affected workers most effectively. Another State workforce agency commenter supported efforts to incorporate existing law, administrative guidance, and practice into a single set of regulations, saying the changes would improve program operations and reduce the burden of referencing numerous amendments and issuances of administrative guidance. The Department has, wherever possible, incorporated administrative guidance into this rule.

The Department received one comment of general opposition to the timing of the proposed rule in relation to the upcoming Presidential election and the status of the economy. The commenter provided insufficient information on why it recommended delaying until after the election, so the Department is unable to address any specific concerns.

Comments on the Department's Approach to Rulemaking

A commenter from an LWDB strongly agreed with the Department's rationale concerning the need for a rulemaking, including that the proposed rule would increase stakeholder and public understanding of how the TAA Program works, would streamline State administration of the program, would strengthen transparency through codification of current practice, and would provide courts with the Department's definitive interpretation of the TAA Program's authorizing statutes.

Citing its own research about the need for TAA Program reform, a nonprofit public policy organization said that the proposed rule covers several issues raised in that research, namely the need to increase the proportion of dislocated workers covered; the need to strengthen the TAA Program across the board (rather than focus on training only); and the need to ensure the training offered results in stable, family-sustaining employment. The commenter, however, suggested additional changes to increase the program's effectiveness: Extending eligibility to workers affected by automation and other large-scale economic disruptions, allowing workers to use TRA for services other than training, and making extra support available to communities hit hardest by foreign trade impacts. The Department appreciates this feedback, but these suggestions are beyond the scope of its statutory authority and are not addressed in this final rule.

While one commenter agreed with the overall argument for why a rulemaking is needed (*e.g.,* to modernize the program regulations), it requested clarification about the intended effect of consolidating the regulations: Whether it will result in a ''universal'' program under which all trade-affected workers may access the same benefits regardless of the statutory basis for their certification, or whether the final rule will provide different requirements and benefits according to the individual statutory basis of eligibility. The commenter said it preferred the ''universal'' approach because it would provide a consistent level of support to all workers and help avoid ''misunderstandings.'' While the Department appreciates the commenter's interest in the provision of a consistent level of support, the Department does not have the authority to apply this final rule to all trade-affected workers without regard to the version of the Act under which the worker group was certified.

Integrated Service Strategies To Align WIOA and TAA Programs

A worker advocacy group strongly supported efforts to codify into the program regulations improved alignment with WIOA, such as through the replacement of core indicators of performance based on TAAEA with primary indicators of performance based on WIOA, and the addition of more robust reporting and data collection requirements. Citing WIOA's approach to promoting industry or sector partnerships among stakeholders at the State and local workforce development area (local area) levels, the group also encouraged the Department to emphasize the importance of aligning training and other services to industry needs. Further, the commenter said that bringing this focus to the TAA Program would help ensure that public investments both lift up affected workers and respond to industry demands.

The Department aligned this final rule with WIOA requirements and has long promoted integrated service delivery for the TAA Program within the nation's public workforce system. These efforts began as early as the passage of the 1988 amendments to the TAA Program and the subsequent passage of the Economic Dislocation and Worker Adjustment Assistance Program. Integrated service delivery became a requirement, enforced via the Governor-Secretary Agreement, following the passage of the WIA. The Department has provided significant administrative guidance and dedicated substantial technical assistance resources to assist States and local areas in developing integrated service models focused on reducing barriers to participation and eliminating duplication of effort. After more than 20 years of promoting an integrated service delivery model and encouraging co-enrollment in WIOA (WIA, JTPA, etc.), the Department, based on detailed analysis of participant outcomes, is now mandating co-enrollment between the TAA Program and the WIOA dislocated worker program. Additionally, as the commenter recommended, the Department has aligned this final rule with the WIOA regulations wherever possible, unless a particular statutory limitation required otherwise or data analysis supported an alternative approach.

One commenter supported the Department's acknowledgment that WIOA and TAA Program alignment is important for workers, businesses, and communities, but it expressed concerns about the level of Federal funding and infrastructure limitations in the public workforce system. The commenter provided data supporting stated concerns about the levels of Federal funding of the public workforce system. The Department recognizes these concerns, but appropriated funding levels are beyond the scope of this rulemaking.

This commenter also made several recommendations to facilitate better alignment of the programs without overburdening workers or program administrators, including clarifying the meaning of WIOA-related terms, such as ''customized training,'' ''on-the-job training'' (OJT), and ''individual employment plan,'' and their application to the TAA Program. To the extent possible and consistent with statutory differences, the Department has aligned these definitions in the final rule. For further discussion regarding how these various terms have been defined, please refer to the preamble discussion for § 618.110 below.

III. Section-by-Section Analysis of This Final Rule

If a section of the NPRM is not addressed in the section-by-section analysis below, there were no public comments received and, unless otherwise noted, the Department has adopted the section as proposed. The Department has made some nonsubstantive changes to the regulatory text to correct grammatical and typographical errors, or to improve readability.

A. Subpart A—General

Subpart A sets forth the purpose and scope of the TAA Program and defines relevant terms used throughout the rule. Subpart A as proposed in the NPRM modified and simplified several definitions for greater clarity, eliminated definitions in response to statutory changes to the Act, and added definitions of new terms based on statutory changes. The definitions used in this final rule are intended to reflect the modernized TAA Program, which has evolved since TAARA 2002, and ensure maximum alignment with WIOA. Where the Department received comments on specific paragraphs within a section, details of those paragraphs as proposed in the NPRM are included to provide context for the discussion of comments that follows.

Section 618.100 Purpose and Scope

Section 618.100 of the final rule sets forth the purpose and scope of the regulations governing the TAA program in one location. Prior to this final rule, this provision existed at 20 CFR 617.1 and 617.2. The NPRM proposed setting forth these provisions in one section, addressing the purpose in paragraph (a) and the scope in paragraph (b). The NPRM also proposed revising them by broadening the purpose to reflect that the TAA Program's purpose is more than just returning trade-affected workers to suitable employment and by expanding the scope beyond what was reflected in 20 CFR 617.2 in light of the fact that part 618 of the final rule combines what had been parts 617 and 618 of title 20 and part 90 of title 29.

With regard to the scope of this rule at paragraph (b), two commenters asked whether eligible trade-affected workers who are members of a worker group certified under previous amendments (versions) of the Act would be provided the benefits and services described in the proposed rule or whether administrative guidance would still apply. The TAA Program regulations were last updated in 1994, with only minor changes made in 2006,[7] 2007,[8] and 2010.[9] Since that time, multiple TAA Program reauthorizations and amendments have required various changes to the TAA Program, which the Department has addressed through administrative guidance. Upon review, the Department concludes that some administrative guidance must remain active in order to serve continuing or new workers enrolling under the TAARA 2002 and TGAAA versions of the TAA Program. The Department will rescind administrative guidance that is either obsolete or superseded.

In short, this rule will apply except where it does not apply to older versions of the TAA Program because of a statutory conflict. Specifically, certain sections will not apply to members of worker groups certified under petition numbers TA–W–80,999 and below. Members of worker groups certified under petition series TA–W–43,000 through TA–W–69,999 and some under the petition series TA–W–80,000 through TA–W–80,999 are served by TAARA 2002,[10] and where this final rule does not apply to a since-amended version of the statute governing the relevant version of the program, administrative guidance will continue to apply for current members of worker groups and any new members of worker groups determined eligible for training services as well as job search and relocation allowances under that version of the program. The same applies for members of worker groups certified under petition series TA–W–70,000 through TA–W–79,999 served by TGAAA. Members of worker groups certified under petition series TA–W–81,000 through TA–W–84,999, and some certified under petition series TA–W–80,000 through TA–W–80,999, are served by TAAEA and this final rule will apply in full. Members of worker groups certified under petition series TA–W–90,000 and above, and some certified under petition series TA–W–85,000 through TA–W–89,999, are served by TAARA 2015, and this final rule will apply in full. The Department has added a clarification to § 618.100(b) of the final rule to explain the limitations of this part 618 and will

[7] 71 FR 35511 (June 21, 2006) (making technical amendments to update obsolete, nonsubstantive, or nomenclature references).

[8] 72 FR 37097 (July 9, 2007) (making minor changes to 29 CFR part 90).

[9] 75 FR 16988 (Apr. 2, 2010) (adding 20 CFR part 618 to include only subparts H and I relating to merit staffing of State administration and allocation of TAA Program training funds to States).

[10] States serving workers certified under petition series TA–W–42,999 and below should contact their regional office for guidance.

provide technical assistance on this topic.

One commenter generally supported facilitating State TAA Program administration. Another commenter wrote that it is difficult to administer separate TAA programs based on the many previous amendments. The Department explored whether it was possible to unite all previous versions of the TAA Program under a single rule to reduce the administrative burden on the States. Unfortunately, this is not possible through regulation and the final rule adopts the regulatory text as proposed.

Section 618.110 Definitions

Section 618.110 sets forth definitions used throughout the TAA regulations, consolidating definitions from several places in the old regulations and guidance, as well as adding some new defined terms. If the Department did not receive public comments on a definition or inclusion of a specific term, the term is not listed below and the definition was adopted as proposed, unless stated otherwise.

Some necessary technical changes were made to several definitions; specifically, the plural pronoun ''their'' was changed to a singular ''his or her'' in the definitions of ''Administrator,'' ''eligible TAA recipient,'' and ''individual employment plan.'' A similar pronoun change was made in the definition of ''qualifying separation,'' being replaced with the acronym ''AAW's.''

Agent State

The Department clarifies that there is only an agent State, other than the liable State, if the AAW has accessed services outside of the worker's liable State. Until such time as the worker seeks services in another State, the liable State is both the liable and agent State. If the worker is simply seeking to travel to another State under a job search allowance, or is relocating to another State, that is not considered to be seeking services in that State. The Department has added this clarification to the definition.

Exhaustion of UI

The NPRM removed this defined term from 20 CFR 617.3(p) and included it in proposed subpart G rather than in proposed subpart A.

Several commenters raised concerns with the elimination of the term ''exhaustion of UI.'' The Department noted in the proposal that it intended to remove this term and address this via the language contained in proposed § 618.720(e). Upon further review, the Department concurs with the commenters and has added to subpart A the original term and its definition into this final rule from 20 CFR 617.3(p), changing only the phrase ''an individual'' to ''a worker.''

Family

The NPRM modified the definition of this term from 20 CFR 617.3(q), which was based on the Internal Revenue Code definition. The definition used in the NPRM was the definition of ''immediate family'' used in the Federal Travel Regulation (FTR) at 41 CFR 300–3.1.

Numerous commenters recommended the Department use the WIOA definition of ''family'' from 20 CFR 675.300, rather than the proposed definition. The commenters asserted that this approach would increase flexibility and better align the TAA Program with WIOA. The Department proposed the FTR definition of ''family'' because the term is used only in subpart D, which governs Job Search and Relocation Allowances. The definition of ''family'' used under other programs, such as WIOA, is inconsistent with subpart D and the requirements of the FTR and is, therefore, not used in this final rule. The Department adopts the term and definition as proposed. However, a technical correction was made to remove an erroneous letter ''s'' before the apostrophe. The rest of the definition of the term is adopted as proposed.

Full-Time Training

The NPRM added ''full-time training'' and defined it for the first time. The definition was derived from 20 CFR 617.22(f)(4) and defined full-time training as attendance in training in accordance with the training provider's established full-time hours in a day (or credit hours) and days in a week. The Department also added an interpretation, originally published in TAAEA administrative guidance, that provided that in the last semester of training, if the remaining required courses to complete the approved training will not meet the training provider's normal definition of full-time training, the State must consider the AAW to be in full-time training, and otherwise eligible to apply for TRA benefits.

A commenter agreed with the proposed definition of ''full-time training,'' saying it would help States assess TRA eligibility for students who are in their last semester of training. The Department has adopted this term and definition as proposed.

Group of Workers

The NPRM added ''group of workers'' and defined it for the first time in regulations. This term relates to the workers who file a petition or for whom a petition is filed. The NPRM defined it to mean at least two workers employed or formerly employed by the same firm, or an appropriate subdivision. The proposed definition included teleworkers and staffed workers because they are frequently performing the same work as other trade-affected workers in the subject firm and are under the subject firm's operational control. Separated workers were included in the definition because they, too, may be trade-affected workers.

Two commenters supported redefining ''group of workers'' as meaning two or more (not three or more) workers. One commenter was concerned that the change would result in a higher volume of petitions filed and certified.

The Act does not define ''group of workers'' and does not otherwise indicate how many workers must be in a group. According to a plain and ordinary meaning of the term ''group,'' the word means more than one. Thus, the Department has reduced the number of workers required to two, allowing for the broadest interpretation of ''group.'' The Department acknowledges that this change may result in a higher volume of petitions; nevertheless, it concludes that this definition is consistent with the statutory framework. The Department adopts this term and definition into the final rule as proposed.

Individual Employment Plan or IEP

The NPRM added ''individual employment plan or IEP'' and defined it for the first time. The IEP is a dynamic document that may be changed based on comprehensive and specialized assessments, training program modifications, or other factors that emerge during program participation.

A commenter recommended a small edit to the definition of ''individual employment plan'' (replacing the word ''State'' with the phrase ''career planner'') for better alignment with both 20 CFR 680.170 of the WIOA regulations (definition of IEP) and the proposed changes to permit staffing flexibility in the TAA Program regulations. Throughout the rule, the Department uses the term ''State'' because the obligation for providing these services under the Governor-Secretary Agreement is on the State. Some commenters were concerned that this was not the appropriate term to use, considering that the additional flexibility provided in the area of merit

staff requirements will result in many of the services under the TAA Program being delivered by local area WIOA staff that are not State employees.

The TAA Program is operated under an agreement between the Secretary and the Governor of each State. Although some services may be performed or administered by non-State staff, it is the State, via the cooperating State agency, that is ultimately responsible to ensure that those services are provided, so ''State'' will be retained throughout the final rule as the appropriate term.

Lack of Work

The NPRM added ''lack of work'' and defined it for the first time. The proposed definition was based on administrative guidance related to ''strikes'' and ''lockouts'' and their effect on eligibility for TAA Program benefits and services since 1987. Specifically, a ''lack of work'' separation occurs when the employer initiates the unavailability of work—the employer either does not have work for the worker to perform or does not make that work available to the worker.

One commenter agreed with the definition of ''lack of work'' to include workers involuntarily barred from work because of an employer-imposed lockout and maintained that this would reach workers who may not be covered by State UI laws. The Department adopts this term and definition into the final rule as proposed.

Layoff

The NPRM modified the definition of this term, by adding the words ''of time'' to the 20 CFR 617.3(z) phrase ''expected to be for a definite or indefinite period.'' In addition, the language at 20 CFR 617.3(z) and 29 CFR 90.2 that required that the layoff be expected to last for ''not less than seven consecutive days'' and ''no less than seven (7) consecutive calendar days,'' respectively, was not included in the proposed definition, because that restriction was not supported by the Act.

One commenter requested clarification regarding the Department's decision not to retain from the previous definition of ''layoff'' in 29 CFR 90.2 the requirement that the employer's suspension of a worker from pay status for lack of work be expected to last ''no less than seven (7) consecutive calendar days.'' The commenter asked, as an example, whether a worker who is ''laid off'' for 1 day and then starts employment with the same employer at a different facility would qualify for relocation allowance, or whether that would be treated as a ''transfer.'' More broadly, the commenter sought clarification about whether there are specific instances in which a State must consider the length of the layoff to determine a worker's eligibility for some TAA Program benefits.

The NPRM proposed removing the language regarding 7 consecutive days. The language removal affirmed that, consistent with the commenter's example, an AAW can be laid off from trade-affected employment for 1 day and begin employment for the same employer at another facility that is not the same subdivision or firm of the certified worker group. Also, if all other eligibility requirements are met, the worker may qualify for a relocation allowance. The Department has determined that, generally, States may consider the length of a layoff to help determine if a qualifying separation is either a first separation or the most recent separation. The Department adopts this term and definition into the final rule as proposed.

Liable State

The Department clarifies that a liable State is the State whose State UI law is the applicable law for the claim. Until such time as the worker seeks services in another State, the liable State is both the liable and agent State. The Department has added this clarification to the definition by indicating that a State can be both the liable and agent State.

On-the-Job Training or OJT

The NPRM modified the definition of ''on-the-job training or OJT'' from section 247(15) of the Act and 20 CFR 617.3(bb). It added that such training is work-based and performed under contract with an employer.

A commenter suggested aligning the definition of ''on-the-job training'' more closely with the WIOA definition (WIOA section 3(44)) to clarify when and how such training is provided and to describe a limit on the duration of such training. While many of the requirements align, there are statutory differences between the Act and WIOA as it relates to OJT, including differing criteria and labor protections. The Department has aligned this final rule wherever operationally and statutorily possible with the WIOA Final Rule, but the statutory differences prevent complete alignment here. The Department adopts this term and definition into the final rule as proposed.

Prerequisite Education or Prerequisite Coursework or Prerequisite Training

The NPRM added the terms *prerequisite education* or *prerequisite coursework* or *prerequisite training* and defined them for the first time. They refer to approvable training under section 236(a)(5)(E) of the Act.

A commenter expressed concern that the proposed definition of the terms *prerequisite education* or *prerequisite coursework* or *prerequisite training* was overbroad and could result in all but a student's last courses being treated as prerequisite. The commenter recommended that the Department adopt an alternative definition, based on language regarding classroom training currently found in 20 CFR 617.21(g): ''any coursework or training required by a training provider before entering an occupational training program designed to impart the skills and information required to perform a specific job or group of jobs.'' Another commenter requested clarification about the proposed definition, stating that it appeared inconsistent with administrative guidance.

The Department concurs with these comments. Though the Department intended to codify the administrative guidance, the Department's definition failed to recognize that, throughout a training program, every course that precedes another one can be considered a prerequisite. The final rule revises the proposed definition of these terms and defines prerequisite education as those courses or training required by a training provider before entering an occupational training program designed to impart the skills and information required to perform a specific job or group of jobs, consistent with administrative guidance.

Program of Remedial Education or Remedial Education or Remedial Training

The NPRM added ''program of remedial education or remedial education or remedial training'' and defined them for the first time. The terms relate to approvable training under section 236(a)(5)(D) of the Act and are used to refer to education designed to improve trade-affected workers' basic knowledge.

A commenter asked for clarification on the Department's proposed definition of the terms *program of remedial education* or *remedial education* or *remedial training,* stating that it seemed inconsistent with administrative guidance. The commenter did not provide any specifics regarding its concern.

The definition as provided, when read in concert with the allowable services under the employment and case management provisions of subpart C and the training provisions in subpart F,

is consistent with the previously issued administrative guidance. The Department adopts this term and the definition into the final rule as proposed.

Successor-in-Interest

The NPRM added ''successor-in-interest'' and defined it for the first time to provide clarity to States when there are mergers and acquisitions, name changes, bankruptcy proceedings, and other actions that may change the name of the firm under which a trade-affected worker's wages are reported to the State or by whom a termination notice or threatened status letter is issued. Under the proposed definition, in determining whether or not there is a successor-in-interest, the State must determine whether most or all of the following conditions are met: There is continuity in business operations; there is continuity in location; there is continuity in the workforce; there is continuity in supervisory personnel; the same jobs exist under similar conditions; there is continuity in machinery, equipment, and process; there is continuity in product/service.

A State workforce agency commented that the Department's clarification in the proposed rule of which actions establish a ''successor-in-interest'' relationship will help States by reducing their need to file petitions seeking to amend a certification. A different commenter requested further clarity as to how to determine whether a successor-in-interest exists. Another commenter requested clarification about the inclusion of wages paid to a worker by a successor-in-interest for purposes of proposed subpart G. Specifically, the commenter stated that States are not able to determine whether a successor-in-interest is ''a valid entity tied to the trade-affected wage'' and it asked what documentation a State would need to reach such a determination.

Under the TAA Program, the Department certifies a worker group, not a firm. Members of the worker group consist of those employed by the firm named in the certification, those employed by a staffing agency, those who telework at remote locations, and those employed by a successor-in-interest. In many circumstances, not all of these categories of trade-affected workers will be specifically referenced in the certification, but those workers will nevertheless be included in the worker group. States can more easily use the factors found in the definition at § 618.110 to determine whether a successor firm is a successor-in-interest and this is further discussed in §§ 618.225(k), 618.505(b), and 618.820(h). When a State determines that a firm is a successor-in-interest to the firm named in an active certification, the State benefits by being able to serve those workers without the delay of having to file a petition to amend the certification.

In regards to RTAA, as stated in § 618.505(b), if the State determines that the AAW returned to employment with a successor-in-interest to the firm from which the worker was separated, then the worker is not eligible for RTAA. This requirement is a protection against firms purposefully separating workers and then rehiring them under a successor-in-interest at lower wages, and shifting those costs to the taxpayer via the RTAA benefit. Applying the certification to the successor-in-interest reflects that the firm may continue to be affected by a trade impact. If the State determines that the reemployment is with a successor-in-interest, the State also must seek to identify any additional members of the worker group and notify them of their potential eligibility under the TAA Program, as provided in § 618.816(e).

The Department recognizes this may be a shift in how some States have administered the TAA Program. Specifically, TRA staff will need to work closely with TAA staff and can no longer rely on employing firms' names being listed in the certification. This reliance on the certification as the sole source for employer information creates delays in serving trade-affected workers. The Department regularly receives petitions requesting to amend a certification solely to add the name of a successor-in-interest whose workers have already been identified to the State in a worker list as part of identifying the worker group. These requests arise simply because the TRA staff believes that the firm must be listed in the determination in order for the trade-affected worker to be eligible to apply for TAA Program benefits and services. The delays caused by waiting for a subsequent petition investigation to conclude prior to serving these workers creates longer periods of unemployment for workers in need of training or other reemployment services. The Department will provide technical assistance to States for handling successor-in-interest issues, as well as for their identification of and provision of benefits and services for members of certified worker groups. The Department adopts the term and definition into the final rule as proposed, except for two nonsubstantive spelling corrections.

Suitable Employment

The NPRM modified the definition of ''suitable employment'' from 20 CFR 617.22(a)(1)(i) and section 236(e) of the Act. The Department proposed that suitable employment exclude part-time, temporary, or threatened employment.

A State workforce agency commented that the proposed definition of ''suitable employment'' excluded ''temporary employment'' and asked the Department to clarify that temporary employment means work lasting 6 months or less. Two additional commenters requested clarification about the intended meaning of ''threatened employment,'' another category of work that would not count as ''suitable employment.'' Specifically, one of the commenters stated that it would support its interpretation as being ''unlikely to lead to a long-term employment opportunity,'' because of its concern that work meeting that definition, even if not explicitly temporary, would be susceptible to future elimination. The commenter maintained that this could trap workers in a ''cycle'' of needing continuous TAA Program benefits or result in their losing eligibility for retraining (and, therefore, having to assume training costs themselves), and should not be considered ''suitable employment.''

The Department shares these concerns and agrees they should be considered. For this reason, the proposed definition of ''suitable employment'' in § 618.110 included language that part-time, temporary, short-term, or threatened employment is not suitable employment.

A State workforce agency recommended ''streamlining'' the definition of ''suitable employment,'' saying that the proposed definition would lead to unnecessary frustration and confusion among workers.

The Department concludes that the proposed definition of this term will reduce confusion by explicitly providing additional guidance to States and trade-affected workers for when employment is not suitable employment for purposes of the TAA Program.

Similarly, another State workforce agency raised the following concerns about the proposed definition of ''suitable employment'': (1) The phrase ''substantially equal or higher skill level'' is unclear and open to interpretation and, if maintained in the final rule, will require administrative guidance for States to operationalize it as a criterion uniformly and objectively; (2) it is not sufficiently flexible and could bar workers at higher incomes from eligibility for some benefits, such

as job search and relocation allowances, because of inability to find new work at a high enough wage; (3) the lack of clarity as to whether and how it should be interpreted relative to other defined terms (*i.e.,* ''average weekly wage'' and ''wages'') muddles the proper approach to issues like noncash compensation, commissions, and bonuses; and (4) the ''blanket exclusion'' for part-time work does not account for situations in which the new work is otherwise suitable in terms of skills required and wages paid ''(*e.g.,* a production worker ret[r]ains to be a [Registered Nurse]).''

The phrase ''substantially equal or higher skill level'' is contained in the statute. In operational terms, States assess the trade-affected worker's preexisting skill levels, abilities, and education, and compare them with the requirements of available employment in the current and projected labor market to determine suitability. The Occupational Information Network (O*NET) provides skill level information for hundreds of occupations. To address the example provided by the State, work scheduled for a Registered Nurse may only be 3 or 4 days a week, but the job is unlikely to be considered part-time under State law based on the hours worked. The Department further explains that the determination of the availability of suitable employment is used for the approval of benefits, not for projecting employment following the completion of training.

Several comments were received about the definition of ''suitable employment,'' requesting clarification of its relationship to the definition of ''wages.'' Proposed § 618.100(a) established that the purpose of the TAA Program is to return trade-affected workers to suitable employment as quickly as possible, which is unchanged from 20 CFR 617.2. In this context, suitable employment means that after the trade-affected worker receives services under the TAA Program, the worker is reemployed at an equal or higher skill level and earns at least 80 percent of his or her former wages. This goal of attaining suitable employment has not changed.

Unfortunately, there are situations in which trade-affected workers may be unable to obtain suitable employment. Such difficulties may occur because (1) few, if any, jobs are available at the workers' former wages with the trade-affected workers' experience; (2) the local labor market has few available jobs; or (3) the trade-affected workers have substantial barriers to reemployment. These factors can significantly limit trade-affected workers' employment opportunities. Offering appropriate training, especially in a stagnant labor market, may significantly increase a trade-affected worker's prospects of obtaining suitable employment. Trade-affected workers must have access to training and services that will allow them the best possible outcomes and ability to compete for work at the highest skill levels and highest wages achievable, as quickly as possible. This must be accomplished with prudence, careful management of limited TAA Program funds, and a practical understanding of labor market realities; given the trade-affected workers' preexisting skill levels, abilities, and education, and the current and projected needs of employers. States must ensure they administer their programs equitably and reasonably. The Department adopts this term and definition in the final rule as proposed.

Wages

The Act does not provide a definition of ''wages,'' so the Department proposed to retain the definition of ''wages'' from existing regulations at 20 CFR 617.3(pp).

One commenter was concerned with the ability of staff to calculate noncash compensation. Another commenter stated that the proposed definition of wages would complicate calculations needed under the RTAA benefit.

In response to these comments, the Department has reconsidered the proposed definition of ''wages.'' The final rule yields to applicable State laws, contains a new reference to a State's definition of remuneration under State UI law, and revises the proposed definition in § 618.110 accordingly.

There is no practical or operational change with this revision, including no change for calculating TRA, or for determining whether reemployment is suitable employment. Before a State can approve a training program, the State must ensure that there is not suitable employment available to the AAW. While calculating the wage component of suitable employment is statutory, it is 80 percent of the average weekly wage as defined by the Act. When exploring the local labor market, the worker and the State will be limited to the information contained in job postings in calculating the reemployment wage. These postings will likely contain an hourly wage rate, annual salary amount, or range. Although the posting may contain reference to other benefits, commissions, or bonuses, these are not usually listed with a known value and are often not guaranteed. Where there is no known value of these benefits, bonuses, or commissions, the State would simply use the wage rate or annual salary amount in the posting to determine whether the wage portion of the definition of suitable employment has been met. Where there are definite benefits, commissions, or bonuses, the State would include those amounts if it would be included in determining remuneration under State UI law. Based on oversight and technical assistance provided on this issue, the Department is confident that this reflects what is being done in most States under the previous regulations in 20 CFR part 617.

Other Terminology Applicable Across Part 618

A few commenters requested that the Department define the term ''teleworker.'' A State workforce agency added that, while § 618.225(j) offers some guidance as to its meaning, a fuller definition in § 618.110, like the definition of ''staffed worker'' found there, would be helpful. The Department has not included a definition of the term in this final rule because there is no singular, agreed-upon definition for the term ''teleworker'' across Federal programs. In general, teleworkers are workers who are members of a worker group who work remotely, but take direction from and report to the location listed for a firm on a certification. The remote location can vary, and may include the worker's own residence, a shared office space, public location, etc. Teleworkers may need to provide information or documentation showing their connection to the worker group if they are not already listed on the worker list provided to the State by the firm.

The same commenter offered several further suggestions of definitions the Department should consider adding to this section of the rule:

- ''Adjustment assistance'' (used in § 618.205);
- ''Annualized reemployment wages'' and ''annualized separation wages'' (to replace the term ''wages,'' which the commenter said is defined in a manner inconsistent with how it is used in § 618.520(a)(2)(i) and (ii), with more ''technical'' terms);
- ''Distance learning'' (in lieu of defining it in § 618.620(b)(2));
- ''Foreign trade,'' ''foreign trade impacts,'' or both; and
- ''Remedial education.''

The commenter also requested clarification about whether the terms ''training'' and ''skills training'' are meant to be interchangeable and suggested that these terms, which (along with the term ''remedial education'') are used in § 618.610(b)(1), might warrant definition in this section.

The requested additional wage-related terms are unnecessary based on the modification made to the definition of ''wages'' in the final rule. Many of these terms are discussed elsewhere in this preamble and the Department concludes that the remaining terms are clear without further definition. The Department declines commenters' suggestions for additional definitions.

Section 618.120 Severability

The Department has decided to include a severability provision as part of the final rule. To the extent that any provision of the final rule is declared invalid by a court of competent jurisdiction, the Department intends for all other provisions that are capable of operating in the absence of the specific provision that has been invalidated to remain in effect.

B. Subpart B—Petitions, Investigations, and Determinations

The purpose of subpart B is to implement the provisions for determining group eligibility to apply for adjustment assistance for trade-affected workers. This subpart provides the process for the investigation of petitions for certification of eligibility to apply for adjustment assistance.

Subpart B addresses sections 221, 222, 223, and 224 of the Act, modifying 29 CFR part 90 and incorporating it into part 618. Proposed subpart B made several changes to update the regulations, including updates to reflect statutory changes and current procedures for filing petitions, conducting investigations, and issuing determinations of TAA Program eligibility, and added a requirement for exhaustion of administrative remedies, specifically, use of the reconsideration process, prior to judicial review. In the NPRM, the Department relocated most of the definitions in 29 CFR 90.2 to subpart A of 20 CFR part 618 for clarity and consistency. The Department did not receive any comments on proposed §§ 618.200, 618.220, 618.230, and 618.260. The final rule adopts these sections as proposed, with the exception of a change at § 618.220(d) to the use of a pronoun. Where the Department received comments on specific paragraphs within a section, details of those paragraphs as proposed in the NPRM are included to provide context for the discussion of comments that follows.

Section 618.205 Petitions

Proposed § 618.205 updated the section related to petitions at 29 CFR 90.11. The Department is finalizing this section as proposed, except for the changes noted below.

Paragraph (a)

Proposed paragraph (a) of this section updated who may file a petition, based on changes to section 221(a) of the Act. This paragraph identified four entities who may file a petition: (1) A group of workers; (2) a union or other duly authorized representative; (3) the employer of the group of workers; or (4) one-stop center operators or partners, including State workforce officials, employment security agencies, or dislocated worker unit and rapid response team members. It also changed the language from 20 CFR 90.11(a) to reduce the number of workers who must sign the petition from three to two. The Act does not specify a minimum number of workers that make up a ''group of workers.''

A commenter generally supported the proposed changes to the petition process, writing that they would reduce barriers for diverse AAW populations. Another commenter wrote that the proposal would clarify the petition process and remove overly technical language. A few commenters agreed that petitions should be filed through the Department's website, but some also requested that the feature for uploading attachments be made more user-friendly. The Department will take these requests into consideration as it works to modify the online system for submitting petitions and uploading attachments, and appreciates the commenters' input and support.

A few commenters supported the proposed change at § 618.205(a), writing that reducing the required number of workers on a petition from three to two would benefit workers and the petition process. The Department appreciates this support.

Another commenter stated that the introduction to paragraph (a) of this section is unclear and a State workforce agency provided recommended edits to § 618.205(a) to clarify which workers may file a petition. The State workforce agency said that the language in paragraph (a) of the proposed rule said that a group of workers may file a petition, yet paragraphs (a)(2) through (4) identified a list of additional entities that could also file a petition. The Department agrees that, while a group of workers may file a petition, there are also others who may file petitions on its behalf. The Department has revised the regulatory text to remove the use of the term ''worker group'' in this paragraph (a).

One commenter recommended removing language at § 618.205(a) that would require petitioners to file simultaneously with their State, writing that a better approach would be for the Department to share petitions with States. The commenter also asked for clarification of the consequences if petitioners failed to file simultaneously under the proposed rule. Another commenter, however, recommended retaining the requirement that petitioners file simultaneously with the State, stating that this is a statutory requirement intended to ensure States provide rapid response services to petitioners. The commenter added that paragraph (j) of this section also should be changed to reflect the statutory requirement that the State and the Department receive petitions simultaneously. The Department agrees that simultaneous filing is not optional. The ''may'' that section 221(a)(1) refers to is the party that is authorized to file a petition, not to the requirement for simultaneous filing of a petition. The proposed rule required that petitions be filed simultaneously with the Department and the State. The Department, therefore, adopts the proposed language into the final rule, with the exception of § 618.205(j), which has been revised to require States to verify that the Department also has received the petition.

A State workforce agency recommended adding the words ''certified or recognized'' before ''union'' at paragraph (a)(2) of this section. The commenter maintained that doing so would be consistent with the regulatory text at §§ 618.205(b)(9)(i) and 618.210(c)(6). The Department agrees and acknowledges that this proposed revision would align the regulatory text more closely with the statutory requirement, and has revised the regulatory text accordingly.

The same State workforce agency also recommended replacing ''employer'' at § 618.205(a)(3) with ''an authorized representative of the firm where the group of workers is employed.'' It maintained that this language would better fit with the regulations' definition of the term ''firm,'' which excludes government entities. The State workforce agency also said that § 618.205(b)(2) likewise uses the term ''firm'' instead of ''employer.'' The Department agrees that public sector workers do not meet the group eligibility requirements for a worker group under TAARA 2015. The use of the term ''employer,'' however, long predated the temporary addition of those workers in 2009, and changing the term from ''employer'' to ''firm'' may unintentionally limit the universe of petition filers, because the term ''firm''

is specifically defined to include the ''firm or appropriate subdivision.'' The Department has adopted the language into the final rule as proposed.

The same State workforce agency requested clarification of ''employment security agencies'' at § 618.205(a)(4). The Department explains that ''employment security agencies'' is a legacy term that refers to the State agency responsible for administering UI. Section 618.205(a)(4) is adopted without change.

Paragraph (b)

Proposed paragraph (b) combined and modified 29 CFR 90.11(b) and (c) regarding the form and content of petitions. It required petitioners to provide information the Department needs to begin its investigation. Absent this required information, a petition would not be valid.

A commenter recommended rewording § 618.205(b) to reflect the possibility that a petition may be filed by persons other than the workers named in the petition. Another commenter generally supported the changes in paragraphs (b)(1) through (9) of this section. The Department agrees with the commenter that proposed paragraph (b) did not accurately reflect the universe of entities who may file a petition and has revised the regulatory text at § 618.205(b) by deleting the first sentence, which specifically referred to the worker group.

Two commenters asked whether § 618.205(b)(4), which required that a petition include the name and contact information of an official within the employer firm or an individual authorized to provide information regarding the operation of the group of workers' firm, meant that only a single point of contact need be provided for a petition for certification. Another commenter recommended that the provision for ''an individual authorized to provide information regarding the operation of the group of workers' firm'' be removed, as it is unclear who such an individual would be. The regulatory text as proposed means that at least one official within the firm employing the group of workers or an individual authorized to provide information regarding the operation of the business is required on the petition form; this regulatory text does not, however, preclude a petitioner from including more than one contact, if known.

One commenter wrote that proposed § 618.205(b)(6), which required that a petition include the actual or approximate date on which total or partial separations are threated to occur or did occur, did not explain clearly how a petitioner would address multiple separation dates. The commenter stated that worker separations in mass layoffs often come in waves, and it recommended that the ''hover text'' available in the online system for submitting petitions (asking that petitioners provide the ''most recent date on which the separation occurred or is threatened to occur'') be adopted in the final rule. The Department has addressed these issues separately through revisions to the instructions provided through the online petition process and on the print versions of the forms.

One commenter wrote that proposed § 618.205(b)(8), which required that the petitioner provide a reason why he or she believes that worker separations have occurred or may occur at the firm due to foreign trade impacts or why an amendment to an existing certification should be granted, provides only a cursory mention of using petitions to amend active certifications. This commenter suggested that petitions to amend active certifications should be addressed in a separate paragraph. Another commenter also recommended that § 618.205(b)(8) and other sections of the regulatory text more clearly address requests to amend petitions. The Department specifically addresses amendments to active certifications in § 618.250, and has made no change in the final rule to § 618.205(b)(8) in response to these comments. The only change to § 618.205(b)(8) is the removal of the word ''employer's'' before ''firm'' for consistency throughout this subpart.

One commenter recommended editing § 618.205(b)(9)(i), which identified who must sign the petition, by adding the words ''of workers'' after ''petitioning group,'' and adding the words ''of the group of workers, or an official of the firm employing the group of workers'' after ''duly authorized representative.'' The commenter wrote that the requirement in § 618.205(b)(9)(ii) that petitioners attest to their authorization to file a petition is problematic for petitioners under paragraph (a)(1) of this section, who often file because of their firm's refusal to do so. The requirement that the workers attest to being authorized to file means only that the workers believe that they are included in the group of workers. This attestation is not related to the firm's support of, or opposition to, the application. The Department has modified the language in the final rule at § 618.205(b)(9)(i) consistent with the comments received. These revisions provide important clarity, while not substantively changing the requirement.

Paragraph (d)

Proposed paragraph (d) of this section updated 29 CFR 90.11(c) and maintained the methods of filing, allowing petition submissions by fax, email, and mail, but strongly encouraged that all petitions be filed electronically with the Department through the Department's website.

Another commenter recommended that paragraph (d) of this section be changed to direct workers to State TAA or TRA coordinators instead of a one-stop center, arguing that the former would provide more accurate information. WIOA designates the TAA Program as a required partner of the one-stop delivery system. Additionally, this final rule requires that the TAA Program be delivered primarily through the one-stop delivery system. Thus, the one-stop centers or rapid response units are the appropriate place for trade-affected workers to be directed to access additional information about the TAA Program. After considering this comment, the Department declines this suggestion, and adopts § 618.205(d) into the final rule as proposed, with a nonsubstantive edit to the hyperlink to the website for the TAA Program.

Paragraph (e)

Proposed paragraph (e) implemented section 224 of the Act, requiring the Department to take specific actions when the ITC issues an affirmative determination on the investigation under section 202 or 421 of the Act, or issues an affirmative final determination under section 705 or 735 of the Tariff Act of 1930.

Two commenters wrote that the changes for International Trade Commission (ITC) notifications at § 618.205(e) would better serve the public if States were notified in addition to industries. The Department explains that the notification to the States was already included in proposed § 618.205(e)(3); therefore, there is no need to revise paragraph (e) and the final rule adopts the paragraph as proposed.

One commenter requested that the Department allow petitions filed on behalf of companies with affirmative ITC determinations to omit information that otherwise would be required in a petition, writing that it is burdensome for States to provide that information. The Department will continue to explore options for the investigation process for petitions filed based on an ITC finding. Any changes made to the petition process must be made under an information collection request (ICR) separate from the final rule.

Accordingly, the Department declines to revise the regulatory text at this time, and this final rule adopts the provision as proposed.

Paragraph (j)

Proposed paragraph (j) of this section set forth the States' responsibilities under section 239 of the Act to verify that the Department has also received any petition filed with the State. No comments were received regarding this paragraph, but the Department has made a technical correction to § 618.205(j) to correct two incomplete conditional statements. There is no change to the intent of the proposed rule or its operational impact as a result of this edit.

Section 618.210 Investigation

Section 618.210 of the proposed rule described the investigation process, authorized under sections 221 and 222 of the Act, and updated the language from 29 CFR part 90 to reflect current procedures and practices in the areas of timing, period of investigation, investigative processes, protection of confidential business information, termination of an investigation, the investigative record, and site visits.

Several commenters stated that it would be helpful if the Department would share a list of impacted workers with States, saying that doing so would expedite their outreach to members of worker groups. The Department does not collect worker lists due to the personally identifiable information contained therein, nor is this information needed for a determination to be made. To assist States in collecting worker lists, the Department has explicitly authorized States to use subpoenas to collect this information from firms that fail to provide the information upon request. Although the use of subpoenas for this purpose has always been authorized under the TAA Program, it has, until now, been implied rather than specified.

Proposed paragraph (c) explained the steps the investigator may take in order to render a determination on a petition. It also identified commonly used sources of information, and provided added detail, structure, and transparency to stakeholders about the investigation process.

A commenter stated that the transparency of the investigative process provided at § 618.210(c) helps ensure that petitions are submitted correctly. The Department's intent of including this additional information is to provide the public with a better understanding of the investigation process and the information reviewed by the Department. The final rule adopts this section as proposed, with the addition of a comma in paragraph (f).

Section 618.215 Public Hearings

Section 618.215 of the proposed rule set forth when a public hearing in connection with an investigation is to be held and, as was explained in the preamble to the NPRM, there were only a few proposed changes from 29 CFR 90.13.

Proposed paragraph (b) established the method for requesting a public hearing and expanded on the requirements related to hearings that existed at 29 CFR 90.13.

A commenter identified a nonsubstantive typo in § 618.215 at proposed paragraph (b)(3). The Department corrects the error by replacing ''is'' with ''of'' and also makes a change to the use of a pronoun in paragraph (d). The remainder of the section is adopted as proposed.

Section 618.225 Criteria for Certification of a Group of Workers

Proposed § 618.225 substantially updated language from 29 CFR 90.16(b) to describe the criteria the Department uses to certify a group of workers, which have expanded significantly under section 222 of the Act. It also identified factors under consideration in determining whether a criterion is met. The revised language provided transparency on how investigations are conducted, the importance of information collected, and how the information is used. The proposed provisions reflected Congressional intent and existing Departmental practices. The Department is finalizing this section as proposed, except for the changes noted below.

One commenter stated that transparency of certification criteria is helpful for the efficient operation of the petition process.

Staffed Workers § 618.225(i)

Proposed paragraph (i) of this section provided that staffed workers, working on or off site, would be classified as part of the worker group of the firm. The Department would specify in the determination document that all members of the affected worker group include teleworkers and staffed workers, but would not list specific leasing companies or temporary staffing entities. The Department would continue to collect information from the subject firm in order to establish the leasing or temporary staffing entity or entities over which the trade-affected workers' firm has operational control. Proposed paragraphs (i)(1) through (9) of this section then listed the factors to be considered in evaluating operation control.

The Department specifically sought comments from the public on whether or not to include, by default, staffed workers as part of a certified worker group. The primary benefit to including staffed workers as part of the worker group is that staffed workers are members of a worker group even if they are not specifically mentioned within the determination document. States may serve those workers without the delay of petitioning to amend an active certification. The Department is finalizing this section as proposed, except for the changes noted below.

One commenter requested guidance for determining whether a staffing entity should be included in a certified worker group. Two commenters requested additional guidance for how States should provide services to staffed workers that were not included in the original certification, especially when more than one agency administers the TAA Program. Another commenter also requested further guidance on the treatment of staffed workers, explaining that there is tension between (1) the Department's determination whether a certification will cover a staffing entity, and (2) the allowance for staffed workers to belong to a certified worker group even if the determination document does not name the workers' staffing entity. A few commenters recommended that the Department continue to list all employers of staffed workers within its determination document, commenting that this practice better provides benefits to eligible workers and is less labor intensive for States. One commenter maintained that naming staffing entities in petitions would help States because the staffing entities, not the certified employers, would have workers' wage data. Conversely, a commenter wrote that requiring States to petition to amend certifications in order to provide benefits to unnamed staffed workers would be needlessly burdensome. Another commenter agreed, writing that such a requirement would lead to longer investigations and, thus, harm the entire worker group. A different commenter agreed that it would be easier for workers to be included on a single petition, but it said that doing so would complicate States' recordkeeping procedures. A commenter stated that the provision for staffed workers would impose an undue hardship on States with limited TAA Program staff. The commenter also pointed out that the TAA Program might be administered by two agencies within a State, which

could lead to inconsistent determinations regarding staffing entities.

The Department appreciates the time and effort taken by commenters to respond to this specific request. The Governor-Secretary Agreement binds the entire executive branch of a State to compliance with these regulations and all determinations made by the Department. Upon publication and implementation of this final rule, State workforce agencies, including those that administer UI, will be bound to implement them.

Once a certification is issued, the States are charged with determining individual eligibility. These regulations provide sufficient guidelines for State agencies to determine whether or not a trade-affected worker is included in the worker group, subject to the determination document issued by the Department. Further, these regulations require States to notify the Department when there are appeals to denials of benefits under the TAA Program. Through this process, the Department will ensure that States are fully compliant with the provisions of these rules related to staffed workers, teleworkers, and successor-in-interest issues.

The Department recognizes this may be a shift in how some States have administered the TAA Program. Specifically, TRA staff will need to work closely with TAA Program staff and can no longer rely on the names of employing firms being separately listed in the certification. This reliance on the certification as the sole source for employer information creates delays in serving trade-affected workers. The Department regularly receives requests to amend a certification solely to add the name of a staffing company whose workers have already been identified to the State in a worker list as part of identifying the worker group. These requests arise simply because the TRA staff believes that the firm must be specifically listed in the determination in order for the trade-affected worker to be eligible to apply for TAA Program benefits and services. The delays caused by waiting for a subsequent petition investigation to conclude, or for an amendment to be issued, prior to serving these workers creates longer periods of unemployment for workers in need of training and other reemployment services. The Department will be providing technical assistance to assist States in handling staffed worker issues as well as to assist in this transition to further empower States in their identification of and provision of benefits and services for members of certified worker groups.

A commenter asked how the Department will treat workers it determines are ineligible after a State has already begun providing services to those workers. If a trade-affected worker is determined ineligible after a State has already begun providing services to the worker, he or she should be treated the same way as the State treats any other worker in similar circumstances. If necessary, the State would issue a benefit denial determination and afford the worker the opportunity to appeal the determination.

Additionally, since trade-affected workers, if eligible, are mandated to be co-enrolled with the WIOA dislocated worker program, the worker may continue to be served by that program or other partner programs. The commenter also questioned when and how often the Department would provide States with the names of staffing entities. The Department will provide States with information on staffing firms.

A different commenter asked how the Department would handle workers of a staffing entity that no longer contracts with a certified worker group firm. When a firm is queried about staffed workers, it will be asked to provide information on all staffing firms utilized during the certification period, even if the contract is no longer in place at the time of the investigation. In accordance with provisions in § 618.225(i), the Department will provide States with the names of staffing entities (if they are provided during the investigation process) at the time the certification is announced to assist States in notifying members of the worker group. States that discover additional leasing or temporary staffing entities employing staffed workers who are members of a certified worker group may serve those trade-affected workers without the delay of filing a new petition requesting an amendment to the certification. This change in procedure will enhance service delivery to workers. The list of staffing entities provided to the States by the Department should not be seen as limiting. There may be workers employed by other staffing entities not listed that are also members of the worker group. States should make clear to the firm that, when requesting the worker list, the list should include all on-site and off-site workers, as well as staffing agencies and successor-in-interest information, if known. The Department encourages States in need of technical assistance on individual scenarios that arise under this final rule to contact their regional office for assistance.

One commenter requested that the Department share Federal Employment Identification Numbers (FEINs) with States to help identify impacted workers, especially teleworkers. The Department certifies a worker group, not a firm, and members of that worker group may be employed by the firm, a subdivision of the firm, a successor-in-interest, or a staffing agency under the direction of the firm. Although a FEIN may be collected during a petition investigation, the Department does not systematically collect all of the FEINs associated with a firm, subdivision of a firm, or all employers of a worker group. Therefore, though an FEIN may be provided, it is insufficient to identify all teleworkers.

The Department recognizes States' challenges in determining individual eligibility for TRA benefits and reviewing wage records to determine if an AAW has worked long enough at a location to qualify for TAA Program benefits. Additionally, challenges also can arise with regard to staffed workers and those who are perceived to be staffed workers.

Scenarios often arise where a firm that employs or employed a certified worker group outsources its payroll and benefits functions to a third party. Trade-affected workers named by the company as being part of the eligible worker group may have their wages paid by the third party and not the company named by the certified petition. For example, Company A has been named in a certification. Trade-affected workers named as part of the worker list associated with this certification have their wages paid to them by Company B, a third party that Company A has outsourced its payroll and benefits functions to, and their wage records do not align with being employed by Company A. The outsourcing of those workers' payroll and benefits processing by Company A to Company B does not render those workers ineligible to individually apply for TAA Program benefits and services. Often, States have filed a petition to request an amendment to a certification to offer clarification. Even though it may appear that the workers named are being paid by a third party, an amendment to add the payroll company before serving these workers is unnecessary. It also may be helpful for States, as part of initial requests to a firm for its worker list, to inquire whether the firm contracts its payroll out to a different company, and to ask for pertinent information about that payroll company.

The Department has adopted paragraph (i) into the final rule as proposed.

Teleworkers § 618.225(j)

Proposed paragraph (j) of this section codified administrative guidance issued as part of the TAAEA operating instructions. This section explained that teleworkers, also known as remote workers, may be part of a certified worker group without being specifically referenced in a certification document, insofar as their position is affected by the same trade effects as other trade-affected workers in the worker group.

One commenter supported including teleworkers in a certified worker group. Another commenter supported the proposal and stated that it would allow States to share lists of teleworkers with other States.

A State workforce agency recommended clarifying whether teleworkers based in other countries could be considered part of a worker group. A teleworker, living abroad, would not be eligible for services or benefits under the Act while abroad. Upon the teleworker's return to the United States, he or she would be able to apply for benefits and services and a determination would be made at that time. The Department adopts § 618.225(j) into the final rule as proposed.

References to Worker Adjustment and Retraining Notice (WARN) Letters

One commenter requested that, where WARN letters are referenced, the Department add ''or a similar letter under [S]tate statute.'' Several States have State laws modeled after the Federal WARN Act requirements. The Department has modified the regulatory text in five instances at § 618.225(a)(2)(i)(C)(1), (b)(2)(i)(C)(1), (c)(1)(iii)(A), (d)(1)(iii)(A), and (e)(1)(iii)(A) to include language that references State-level WARN laws.

The same commenter also recommended replacing the term ''displaced worker'' with ''dislocated worker'' throughout the proposal in order to match WIOA terminology. Upon review, the Department has concluded that neither term is ideal. The Department has changed the six instances of the term ''displaced workers'' at § 618.225(a)(2)(i)(A)(4), (b)(2)(i)(A)(4), (c)(1)(i)(D), (c)(2)(i)(D), (d)(1)(i)(D), and (e)(1)(i) to ''workers in the group of workers.'' Since ''displaced workers'' is not a defined term, ''workers in the group of workers'' is more appropriate and this clarification does not change the meaning of the regulatory provision.

Finally, the Department made nonsubstantive technical corrections to capitalize the term ''Certifying Officers'' in this section. Aside from the modifications discussed above, the final rule adopts § 618.225 as proposed.

Section 618.235 Determinations

Section 618.235 of the proposed rule clarified the process the Certifying Officer would use for issuing a determination based on the findings of the investigation as set forth in § 618.230. The final rule adopts this section as proposed, except for the changes noted below.

Proposed paragraph (c) covered determinations and was derived from 29 CFR 90.16(d). Proposed paragraph (d) covered amended determinations and codified the practice of amending a certification.

One commenter recommended a technical correction to the opening part of paragraph (c) of this section to clarify that the correct title is Certifying Officer and not Certifying Official. The same commenter also recommended revising paragraph (d) of this section to allow the Department to amend certifications with or without a petition. The commenter requested clarity about the provision in paragraph (d) allowing the Department to reconsider a denial on its own initiative, commenting that there is an absence of references to other, related provisions in § 618.245. Based on these comments, the Department revised the regulatory text at § 618.235(c) to refer to a Certifying Officer instead of a Certifying Official, at § 618.235(d) to provide that a determination may be amended in accordance with § 618.250(a), and has also added a new provision § 618.235(e) explicitly stating the Department's preexisting, intrinsic authority to modify its determinations. The Department has included a similar statement in the final rule at § 618.250(d) to address the comment about the Department's ability to amend determinations on its own authority.

Section 618.240 Termination of Certification

Proposed § 618.240 discussed the termination of certifications under section 223(d) of the Act and updated the previous regulations to reflect current practice and procedures through minor revisions to 29 CFR 90.17. The Department clarified that any party eligible under proposed § 618.225 to submit a petition may file for a reconsideration of a terminated or partially terminated certification. A decision to uphold the termination of a certification after reconsideration is a final determination by the Department and subject to judicial appeal. The Department is finalizing this section as proposed, except for the changes noted below.

Paragraph (a)

Proposed paragraph (a) restated section 222(d) of the Act and is unchanged from 29 CFR 90.17(a). Proposed paragraph (a)(1) described that unless a termination is issued under proposed § 618.240, all certifications made under proposed § 618.235(a)(1)(ii) are considered terminated the day following the expiration date of the certification. Proposed paragraph (a)(2) provided that all ITC certifications, described at § 618.225(f), are considered terminated the day following the expiration date of the certification, which is 1 year following the date of publication of the determination in the **Federal Register**.

The Department received comments on proposed paragraph (d), discussed below, which resulted in the final rule not carrying forward proposed paragraphs (a)(1) and (2) of this section.

One commenter asked how a termination would affect program participants. In response to this comment, if a certification is terminated, no additional trade-affected workers would be eligible to enroll in the TAA Program as of the effective date of the termination. AAWs already receiving TAA Program benefits and services would be allowed to continue in the TAA Program. The Department made no changes in response to this comment.

Paragraph (b)

Proposed paragraph (b) included the notice language from 29 CFR 90.17(a) and updated it to include to whom the notices will be made. It also required the State to notify the trade-affected workers in the worker group of the initiation of the investigation to terminate a certification.

Two commenters asked how States may notify a worker group of a terminated certification. Similarly, a State workforce agency commented that States should be required to notify only those trade-affected workers who would face separations after a certification termination, because a broader requirement would burden States and confuse workers. The Department does not concur with the commenter that such a notice would cause burden or confusion. The notification should clearly state that workers fully or partially separated prior to the termination date remain eligible for benefits. The regulatory text in the final rule has not been revised.

Paragraph (d)

Proposed paragraph (d) described the information that will be considered in determining whether to terminate a certification and provided that the period of investigation would remain the same as the period of investigation for the original certification.

One commenter asked how terminations issued because worker separations fail to result from conditions set out in section 222 of the Act could be consistent with paragraph (d) of this section, if the period of a certification will remain the same as the original period of investigation. The commenter asked if the issue is whether those conditions, which existed at the time of the certification, have changed in the period since the certification and before the standard date of termination. The termination provisions, as proposed, were based on the statutory language at section 223(d) of the Act and previous regulations at 29 CFR 90.17. The actions taken under the termination provision do not establish a new period of certification. A change in circumstances may occur to change the conditions under which the worker group was initially certified. In most scenarios, a termination is a result of the removal of a threat of separation and often there have been no actual separations and the conditions that resulted in the threat are no longer present. The Department sought to provide additional transparency and clarity on the internal operations of the investigation process related to terminations. In doing so, the Department now recognizes that the proposed language needs clarification. As a result, the Department has revised the regulatory text to reflect more closely the language included in 29 CFR 90.17 by deleting proposed § 618.240(a)(1) and (2), deleting the last sentence of proposed § 618.240(d) (which would have required the period of investigation of a termination of certification to remain the same as the period of investigation for the original certification), and making minor technical edits to proposed § 618.240(e)(1) and (f).

Paragraph (e)

Proposed paragraph (e) combined 29 CFR 90.17(d) and (e) to provide details on the process of issuing a notice of termination or notice of partial termination, and detailed to whom the notices would be issued. It required States to notify the worker group of the termination or partial termination. It also stated that a termination would not take effect until the period in which a party may request reconsideration has elapsed.

A State workforce agency requested additional guidance on paragraph (e) of this section, asking how the final rule would impact workers who receive services prior to a termination date. The Department clarifies that there would be no change in benefits to AAWs who have been separated or partially separated prior to the termination. AAIWs who are receiving benefits would be impacted by a termination or partial termination of a certification, as they would not have been separated or partially separated. Aside from the technical edit to § 618.240(e)(1) discussed above, the final rule adopts paragraph (e) as proposed.

Paragraph (f)

Proposed paragraph (f) updated 29 CFR 90.17(f) and provided detail on the process of issuing a notice of continuation of certification, and detailed to whom the notice will be issued. It required States to notify the worker group of the continuation of certification.

One commenter recommended that the Department be required to provide notification to workers in a worker group for which certification has been terminated, instead of the State, writing that States could share their information with the Department or the Department could provide States with a letter to send on its behalf. The commenter also recommended deleting the third sentence of paragraph (f) of this section, as notice to the worker group is already addressed in the last sentence of paragraph (f). Another commenter supported notifying workers that a petition is under investigation, but requested that the regulation contain information as to what must be included in a notification and who would need to receive it. The Department will provide training and technical assistance on how States can provide notice to impacted trade-affected workers should a termination occur, but States should plan to contact workers using available contact information and to notify eligible workers who are nonparticipants in a similar manner in which States first notified the impacted workers of their eligibility to apply for benefits and services.

One commenter asked for an example of why a certification would be terminated. One example would be if the Department receives notice from a company official that the firm just received a new contract and have canceled the imminent layoffs of the certified worker group. Another example is where the company has canceled the outsourcing of its manufacturing line to a foreign country. In these cases, the Department would investigate and determine whether separations are still attributable to the reasons stated in the worker group certification. The Department points out this provision also was in 29 CFR 90.17. Aside from the technical edit to § 618.240(f)(1) discussed above, the final rule adopts paragraph (f) as proposed.

Paragraph (g)

Proposed paragraph (g) allowed for reconsideration of a termination or partial termination of a certification and referred parties to § 618.245.

The same commenter discussed immediately above also wrote that paragraph (g) of this section should refer to § 618.205, not § 618.225. The Department has corrected the typographical error.

Section 618.245 Reconsideration of Termination of an Investigation, Denial, or Termination or Partial Termination of Certification

Proposed § 618.245 contained the process for reconsiderations of determinations on petitions. The proposed rule contained several changes from the previous language in 29 CFR 90.18 to provide additional clarifications and to enhance efficiency of investigations.

A State workforce agency stated that the Department should notify States when it is reconsidering a termination. The State workforce agency said that the proposed change would expedite reconsideration requests. Another commenter, a private citizen, agreed and said the rule would make reconsiderations mandatory prior to a final adverse determination. The Department concurs with the commenters and will provide notification of any intent to reconsider. This is an operational process that does not require a change to the regulatory text. As such, no changes were made to the regulatory text in the final rule in response to these comments.

Section 618.250 Amendments of Certifications

Proposed § 618.250 provided the process for seeking amendments to certifications. Although the proposed process was not previously included in regulation, the Department has been issuing amendments for many years. Section 223 of the Act establishes that a determination be issued for any group that meets the eligibility criteria of section 222 of the Act. The Department interprets that provision to mean that, should new or supplemental

information support a clarification of the certified worker group, the Department may issue an amended certification under the same petition number and publish the amendment in the **Federal Register** and post it on the Department's website. The Department is adopting this section in the final rule as proposed, except for the changes noted below.

Proposed paragraph (a) described the reasons for amendments and explained that amendments must not extend the impact date as that would go beyond the period covered by the certification itself.

A commenter requested that the Department further specify that the Department may undertake to amend a certification on its own initiative, without a § 618.205 petition. The Department has modified the regulatory text in §§ 618.235(d) and 618.250(a) to clarify that the Department retains the authority to amend a certification without a petition where it has determined that an amendment is appropriate. The Department has further modified the paragraph heading in § 618.250(a) in the final rule from *Types of amendments* to *Reasons for amendments* to accurately reflect the contents of paragraph (a).

A commenter asked whether the reference in § 618.250(a) to § 618.235(a)(1)(iii)(A) should cite § 618.235(a)(1)(ii) instead. The correct reference is § 618.235(a)(1)(ii), and the citation in the regulatory text has been corrected accordingly.

Section 618.255 Judicial Review of Determinations

Section 618.255 in the NPRM proposed the process for judicial review of determinations issued under proposed § 618.245(g). This is a significant revision to the language previously at 29 CFR 90.19. Section 284 of the Act allows for judicial review of only ''final determinations.'' Under previous regulations, all determinations the Department rendered were final determinations subject to judicial review. The Department is adopting the section in the final rule as proposed, except for the change noted below.

Proposed paragraph (b) defined only determinations on reconsideration issued under proposed §§ 618.240(g) and 618.245 as final determinations subject to judicial review through the United States Court of International Trade (USCIT).

A commenter wrote that § 618.255(b) should be amended to reference only § 618.245(g) rather than §§ 618.240(g) and 618.245. The commenter stated that the latter sections are not correct citations with respect to final determinations. The Department concurs, has corrected the citation in the regulatory text, and otherwise adopts § 618.255(b) as proposed.

Section 618.265 Availability of Information to the Public

Section 618.265 of the NPRM proposed at paragraph (a) that the Department would post all determinations and redacted petitions on the Department's website. This paragraph also provided that members of the public may inspect petitions and other related documents filed with the Administrator. Proposed paragraph (b) stated that confidential business information would not be made available to the public. Section 618.265 as proposed was largely unchanged from the previous language at 29 CFR 90.32, except to indicate that copies of petitions, in redacted form, would be available on the Department's website.

A commenter recommended adding a reference to the TAA Program website to § 618.265(a). The Department concurs with the suggestion to include the website for the TAA Program in § 618.265(a). The website reference has been added to paragraph (a) of this provision in the final rule, and the Department otherwise adopts § 618.265 as proposed.

C. Subpart C—Employment and Case Management Services

Subpart C describes the employment and case management services that States must make available to trade-affected workers as required by section 235 of the Act. These services were previously set forth in 20 CFR part 617. The proposed regulation proposed significant changes to the part 617 provisions to reflect the changes enacted by TGAAA, TAAEA, and TAARA 2015. However, not all of the requirements included here are new. Previously, 20 CFR 617.20 and 617.21 contained many of the same elements now contained in section 235 of the Act and in this final rule.

Subpart C of the NPRM also proposed language to update 20 CFR part 617 to reflect changes to the TAA Program and related workforce development programs due to the authorization and implementation of WIOA. This subpart emphasizes the integration of the TAA Program into the one-stop delivery system established under WIA and continued under WIOA. It also implements the requirements of section 221(a)(2)(A) of the Act for the provision of rapid response assistance and appropriate career services for workers upon receipt of a petition filed covering a group of workers.

Some key proposals within subpart C included requiring initial assessments for trade-affected workers, clarifying the provision of required case management services, and prescribing requirements for IEPs.

The Department is finalizing this subpart as proposed, except for the changes noted below. Where the Department received comments on specific paragraphs within a section, details of those paragraphs as proposed in the NPRM are included to provide context for the discussion of comments that follows. No comments were received on proposed §§ 618.300 and 618.305, and the final rule implements these sections as proposed.

Section 618.310 Responsibilities for the Delivery of Employment and Case Management Services

Proposed § 618.310 of the NPRM set forth the State's responsibilities for delivering and making available employment and case management services. These responsibilities are from section 235 of the Act. The Department is making a technical correction to § 618.310(a) to edit the citation from § 618.820 to § 618.816. The Department is finalizing this section as proposed, except for the changes to § 618.310(b) and (c) noted below.

Paragraph (b)

Proposed paragraph (b) listed the State's specific responsibilities for delivering employment and case management services. The proposed regulatory text modified 20 CFR 617.20(b). The language in 20 CFR 617.20 was based on workforce programs that have been replaced by WIOA and used outdated language to describe reemployment services, now known under the TAA Program as employment and case management services. Proposed paragraph (b) did not significantly change the activities and services that States must provide or make available to trade-affected workers. It required that States (1) interview and review training opportunities for each trade-affected worker, (2) inform trade-affected workers of the services and allowances available, (3) help them secure suitable employment, (4) accept applications for training, (5) help them secure appropriate training, (6) monitor their training progress, (7) devise a training-waiver process, (8) provide access to workshops and other employment resources, and (9) coordinate other employment benefits that workers may be eligible for.

Proposed paragraph (b) also reorganized 20 CFR 617.20(b). All the

provisions of 20 CFR 617.20(b), if not contained in this section, are subsumed elsewhere in the rule.

One commenter expressed concern about the requirement at § 618.310(b)(1) mandating States subject ''every'' trade-affected worker to an intake process that includes an interview and a review of appropriate training opportunities. The commenter said many trade-affected workers will choose not to participate in the TAA Program, and States cannot be expected to force all workers eligible for the program to undergo the intake process. The commenter recommended changing the provision to require only that States ''offer'' to provide the intake process to trade-affected workers to account for the fact that some workers may in fact choose not to participate in the TAA Program. The Department emphasizes that intake requires an application of enrollment; therefore, the intake requirement is applicable only to those trade-affected workers who apply to the TAA Program for receipt of TAA Program benefits and services. As such, there is no need to change the regulatory text related to this requirement and it is adopted in the final rule as proposed.

A State workforce agency recommended adding language to § 618.310(b)(5) about States' eligible training provider (ETP) list under WIOA to facilitate more effective communication about available training opportunities. Section 236(a)(5) of the Act, however, specifically prohibits limiting approved training under the TAA Program to the ETP and the Department is concerned that adding the commenter's proposed language would potentially mislead those administering the program. Accordingly, the Department is adopting paragraph (b)(5) in the final rule as proposed.

Paragraph (c)

Proposed paragraph (c) implemented section 235 of the Act by requiring States to provide, if appropriate, specific employment and case management services to trade-affected workers. Proposed paragraph (c)(1) required States to assess workers' skills and service needs through assessments and by identifying appropriate employment goals and barriers to employment. These goals should be based on a realistic assessment of available training; the worker's knowledge, skills, and abilities; and the gap between them and those required for the worker's identified employment goal.

Proposed paragraph (c)(2) required States to inform trade-affected workers of the availability of the development of an IEP to identify employment goals and objectives and appropriate training and services needed by the trade-affected worker to achieve those goals and objectives. An IEP is a combination of the ''training plan'' contained in 20 CFR 617.20(b)(8) and the ''reemployment plan'' in 20 CFR 617.20(b)(13). The requirement to periodically review the reemployment plan in 20 CFR 617.20(b)(13) was carried forward as a requirement for an IEP under the NPRM. For workers seeking training or job search allowances, § 618.350(a) required States to provide workers with an IEP, though this is not a requirement for eligibility for benefits.

Proposed paragraph (c)(3) required the State to provide information to trade-affected workers on how to apply for financial aid, including referring workers to educational opportunity centers under the Higher Education Act of 1965, as amended (HEA). In addition, States must notify workers that they may request financial aid administrators to use current year income data, rather than preceding year income data, to determine the workers' financial need. This is required by section 235(4) of the Act. There was no corresponding requirement in the previous rule.

Proposed paragraph (c)(4) required States to provide, if appropriate, certain services to trade-affected workers, including short-term prevocational services such as development of learning skills, communications skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare workers for employment or training. These are referred to commonly as ''soft skills'' within the public workforce system. These services are required by section 235(5) of the Act. There was no corresponding provision in the previous rule.

Proposed paragraph (c)(5) required States to provide, if appropriate, individual and group counseling, including job search and placement counseling. These services can be provided in one-on-one counseling sessions or in workshops at a one-stop center. These services were referenced indirectly in 20 CFR 617.20 and 617.21 and are required by section 235(6) of the Act. The NPRM proposed the use of more modern terminology that reflects the changes to the public workforce system that have occurred through the transition from JTPA, to WIA, and now to WIOA.

Proposed paragraph (c)(6) required States to provide various kinds of employment statistics, including local, regional, and national labor market information, to ensure trade-affected workers make informed decisions about their employment goals and training needs. Part 617 of title 20 of the CFR referenced the provision of labor market information to trade-affected workers in relation to job search activities, relocation, and training programs. Section 235(7) of the Act requires States to provide this information.

Lastly, proposed paragraph (c)(7) required States to inform trade-affected workers about supportive services available through partner programs, as required by section 235(8) of the Act. This requirement also was contained in 20 CFR 617.20(b)(5) and 617.21(e). The TAA Program reimburses limited travel and subsistence costs for training outside the worker's commuting area and provides for all training-related expenses (see subpart F). However, the TAA Program does not pay for vehicle repairs, local travel costs, childcare, or other similar supportive services traditionally paid for under WIOA.

A State workforce agency recommended eliminating ''duplicative'' language in § 618.310(c) by deleting ''under a certification of eligibility'' because trade-affected workers, as defined in § 618.110, include only those the State determined to be in ''adversely affected employment'' and adding ''ensure'' to § 618.310(c) to clarify that the State must make employment and case management services available to trade-affected workers. The Department concurs and has revised the regulatory text in the final rule based on this comment.

One commenter expressed concern that RTAA is not on the list of services about which States must notify workers at § 618.310(c), despite its low usage among TAA Program recipients. The same commenter stated that most displaced workers return to work at reduced wages and that wage insurance is valuable for AAWs seeking reemployment on their own without much contact with the State. The commenter recommended that States ''aggressively market'' RTAA and suggested that information about the benefits of the RTAA program should be communicated to workers. The Department explains that States are required to notify workers about RTAA under § 618.816 and for that reason the Department is not adopting the recommendation to include RTAA on the list of services mentioned here. The Department does, however, strongly encourage that information about the benefits of RTAA be relayed to potentially eligible workers, including information on the flexibility of receiving training and RTAA concurrently.

One commenter asked whether States can meet the requirements at both § 618.310(c)(1) and (2) by combining the initial assessment with an IEP to identify barriers to employment. The Department is not establishing a sequence of services. Intake, assessment, and the development of an IEP can all occur in the same session with a career counselor. No changes have been made to the regulatory text in response to this comment.

Section 618.325 Integrated Service Strategies and Workforce Innovation and Opportunity Act Co-Enrollment

Section 618.325 proposed co-enrollment between the TAA Program, WIOA dislocated worker program, and other programs to ensure the availability of a comprehensive array of services for trade-affected workers and the integration of workforce development programs. The Department previously concluded that co-enrollment of trade-affected workers in the dislocated worker program under WIOA, WIA, and title III of JTPA before that, was the best way to integrate services and ensure successful reemployment of trade-affected workers. States have, generally, been co-enrolling trade-affected workers in accordance with administrative guidance. This integration of service strategies arises from the requirement in section 239 of the Act to make available employment and case management services, such as counseling, testing, placement services, and supportive and other services for trade-affected workers.

Proposed paragraph (a)(1) required co-enrollment of trade-affected workers in WIOA's dislocated worker program. Co-enrollment allows for more efficient use of public workforce system resources and reduces barriers to program integration. A trade-affected worker may decline co-enrollment, which has no effect on eligibility for benefits and services under the TAA Program. In implementing the co-enrollment requirement, States must make trade-affected workers aware that they are being co-enrolled in the WIOA program.

Proposed paragraph (a)(2) required that States make available to eligible trade-affected workers co-enrollment in Wagner-Peyser Act Employment Service activities, vocational rehabilitation services, and veterans' programs, such as the Jobs for Veterans State Grants program, and other one-stop partner programs, if appropriate. When trade-affected workers are co-enrolled properly in other one-stop programs, provided timely rapid response services, and given appropriate career services, they return to work as quickly as possible. Co-enrolled trade-affected workers also can receive supportive services that may help them complete TAA approved training and then return to employment. The Department expects the TAA Program, in general, to pay for all training and related costs and the majority of employment and case management services. However, trade-affected workers often also benefit from WIOA's supportive services and post-employment follow-up services, which cannot be funded through the TAA Program.

Proposed paragraph (b)(1) emphasized that most trade-affected workers are dislocated workers as defined at WIOA section 3(15). Most trade-affected workers have been laid off, are likely to be eligible for unemployment compensation or are otherwise attached to the workforce, and are unlikely to return to a previous industry or occupation, which are the primary eligibility criteria for the dislocated worker program. There are only a few barriers to WIOA eligibility. Proposed paragraph (b)(2) recognized that AAIWs will generally not be eligible for the WIOA dislocated worker program, but in certain circumstances, such as a general announcement of a closure, they may meet those eligibility criteria and must also be co-enrolled. Similarly, some partially separated workers' wages and time on the job will have decreased, but they remain employed and do not meet any other eligibility requirements of the WIOA dislocated worker program. Proposed paragraph (b)(3) described that the broader requirement under WIOA that certain males be registered under the Selective Service provisions can be a barrier to co-enrollment. There is no Selective Service registration requirement under the TAA Program. If a trade-affected worker knowingly and willfully fails to register, he or she cannot co-enroll in WIOA and, therefore, the co-enrollment requirement does not apply.

Multiple commenters favored the co-enrollment requirement. A State workforce agency supported the mandated co-enrollment proposal and argued that trade-affected workers also eligible for WIOA's dislocated worker program would receive better ''wrap-around'' and follow-up services that the TAA Program cannot cover on its own, ultimately facilitating improved experiences and outcomes for workers. Other commenters agreed with the proposal to mandate co-enrollment of trade-affected workers also eligible for the dislocated worker program, with some stating the proposal also would improve workers' outcomes and experiences. A different State workforce agency expressed support for the proposal, saying it would increase access to a broad array of services and promote greater cooperation between TAA Program administrators and their partners.

Multiple commenters suggested that if the Department seeks to mandate dislocated worker co-enrollment in TAA Program regulations, it also should mandate such co-enrollment in the WIOA regulations to ensure equivalent expectations across the two programs. The States, under the Governor-Secretary Agreement, are bound to the implementation of the final rule. The Agreement binds the entire executive branch of the State governments to the terms and conditions of the Agreement and the implementation of the TAA Program. This includes the implementation of the co-enrollment requirement. The Governor, through the State workforce development board, has the authority to enforce the co-enrollment requirement at the State and local area levels. In addition, WIOA itself requires a State to enroll an eligible individual who applies for the dislocated worker program, though receipt of services will be contingent on funding availability. The Department will provide additional technical assistance and training on co-enrollment to the workforce system.

Other commenters opposed mandating co-enrollment, stating that co-enrollment ''does not make sense'' and ''undermines'' the WIOA dislocated worker program. These commenters suggested co-enrollment should only apply when another program can offer complementary services (or funding to support such services) to trade-affected workers. One commenter said that, while co-enrollment would benefit workers in certain situations, it would not offer any benefits to workers who do not have a need for any services offered under WIOA. The same commenter suggested the rule should provide additional guidance to States beyond simply allowing workers to opt out, including informing workers about services that would be best delivered through WIOA co-enrollment and describing any additional reporting or other requirements that could impact a worker's decision to co-enroll.

Co-enrollment of TAA Program participants in the WIOA dislocated worker program drastically improves the quality of service to trade-affected workers and improves participant outcomes. Based on data States reported between FYs 2009 and 2017, TAA Program participants who were co-enrolled in the dislocated worker program under WIA/WIOA have superior post-program employment

results, by a consistent margin, in comparison to TAA Program participants who were not co-enrolled in a WIA/WIOA dislocated worker program. Moreover, these data showed no adverse impact on outcomes under the dislocated worker program as a result of co-enrolling TAA Program participants.

TAA Program participants co-enrolled in the dislocated worker program have (1) higher training participation (75 percent versus 51 percent for those not co-enrolled), (2) higher training completion rates (78 percent versus 71 percent for those not co-enrolled), and (3) higher credential attainment (73 percent versus 62 percent for those not co-enrolled). All of these outcomes are correlated with higher performance outcomes and the differences in performance are statistically significant. Accordingly, the Department declines to revise this section, and this final rule adopts this section as proposed.

A State workforce agency said that while it appreciates the ''philosophy'' of co-enrollment in WIOA, it has concerns about the impact on resources available to support non-TAA-eligible workers who already have a less desirable suite of benefits. The State workforce agency stated that most of the dislocated workers it works with could not access TAA Program benefits, and while it would be beneficial to offer a full suite of benefits to trade-affected workers through WIOA co-enrollment, doing so might deplete resources available for non-TAA-eligible dislocated workers. The State workforce agency suggested that Congress should consider this resource limitation when reauthorizing the Act. The Department appreciates the commenter's concerns but reminds States that TAA Program funds are to be the primary source of funds used to serve trade-affected workers. The co-enrollment requirement does not change this, and WIOA funding should be used to provide services only where TAA Program funding may not be used for the service. No changes have been made to the regulatory text as a result of this comment.

One commenter suggested the Department should clarify that States can use TAA Program funds to cover costs associated with workforce system alignment to reduce administrative burdens, and it requested that the Department provide more guidance to States about the information workers will need before deciding to opt out of co-enrollment. Two different commenters asked if the Department would issue subsequent administrative guidance about co-enrollment for the WIOA program. The Department agrees with these comments. Technical assistance is available on the TAA Program website, and additional training and technical assistance will be provided to address co-enrollment and the use of TAA Program funds to support co-enrollment.

One commenter requested that the proposed language be revised to include co-enrollment in WIOA's adult and youth programs also, and stated that there is a Trade Adjustment Assistance Data Integrity measure that currently allows for adult co-enrollment and asked whether that practice would continue. A different commenter, as part of a request for the addition of WIOA's adult program to the co-enrollment mandate, requested guidance allowing States and local areas to shift funding to the adult program and argued that failing to include this option would reduce supportive and integrated services for TAA Program participants in areas with less funding for WIOA's dislocated worker program. The Department is limiting the regulatory requirement to the WIOA dislocated worker program because those eligibility requirements most closely align with the TAA Program; however, nothing prohibits a State or local area from also co-enrolling the worker in the adult or youth program if he or she is otherwise eligible. No changes have been made to the regulatory text.

One commenter expressed concern about the mandated co-enrollment provision because WIOA staff do not currently meet merit staff criteria under the TAA Program, and TAA Program funds cannot support the delivery of TAA Program services by such staff. The commenter urged that TAA Program funds be opened to all staff who will support TAA Program activities if co-enrollment is maintained, and it also suggested WIOA's dislocated worker program should remove its merit staffing requirements. The Department's revision to the merit staffing requirements in § 618.890 will address the commenters' concerns by allowing non-merit staff to be funded under the TAA Program for the provision of employment and case management services. No changes have been made to the regulatory text.

One commenter expressed concerns with provisions contained in § 618.325(a) and (b). The commenter suggested that the first sentence of § 618.325(a)(1) and the corresponding language in (b)(1) be revised to restrict trade-affected workers to those ''participating in the TAA Program'' in order to distinguish between TAA Program participants and workers who may meet the definition of ''trade-affected worker,'' but choose to not apply or participate in the program. The commenter also suggested the first sentence should not describe the co-enrollment requirement as an absolute, since the second sentence clarifies that workers can decline co-enrollment in WIOA. The Department reiterates that a trade-affected worker has already been determined individually eligible for the TAA Program and, thus, already has a connection to the workforce system. The definition of the term ''trade-affected worker'' means both ''adversely affected workers'' and ''adversely affected incumbent workers.'' A member of a worker group only becomes an AAW or AAIW once the worker individually applies and is determined eligible for TAA Program benefits and services. The Department further maintains that the second and third sentences of § 618.325(a)(1) provide sufficient clarification on the absolute nature of the co-enrollment requirement and must be read together to understand that the requirement is on the State, not the worker. No change has been made to the regulatory text in the final rule in response to this comment.

A State workforce agency suggested changing the beginning of the first sentence of paragraphs (a)(1) and (2) to ''The State must ensure'' to account for the fact that the act of co-enrolling workers may occur by non-State staff at the local area level. The Department clarifies that the use of the word ''State'' is related to the Agreement that provides the formal relationship between the States and the Department. Due to the unique nature of the workforce systems in each State, while removing the word for one State might be beneficial, in another it may complicate the issue. For the reasons discussed above and elsewhere in this subpart, the Department maintains the regulatory text as proposed.

One State workforce agency expressed support for the alignment of employment and case management services with established TAA Program goals and practices. Another commenter agreed with co-enrollment between the WIOA and TAA programs but questioned whether the WIOA regulations would be amended to include requirements associated with the TAA Program and how States would enforce cooperation, arguing that TAA Program staff do not control WIOA staff. The Department clarifies that WIOA section 512(hh)(1)(B) amended section 221(a)(2)(A) of the Act to require rapid response and appropriate career services at the time a petition is filed. These requirements are already in the WIOA Final Rule at §§ 682.302(d) and

682.330(i) of this chapter. With regard to the co-enrollment requirement, the Department concludes that no additional regulatory language is needed in the WIOA rules to compel compliance with this new requirement, since AAWs are eligible to be enrolled in the WIOA dislocated worker program upon request. The States, under the Governor-Secretary Agreement, are bound to the implementation of these rules. The Governor-Secretary Agreement binds the entire executive branch of the State government to the terms and conditions of the Agreement and the implementation of the TAA Program. This includes the implementation of the co-enrollment requirement. The Governor, through the State Workforce Development Board, has the authority to enforce the co-enrollment requirement at the State and local area levels.

Some commenters recommended that additional clarity was needed on the permissible usage of TAA Program funding for non-merit staff carrying out activities under subpart C and said that this lack of clarity provided a reason to match the staffing flexibility described in the proposed regulations for the Wagner-Peyser Act Employment Service, that have since been finalized. The commenters cited language from the preamble of the Wagner-Peyser NPRM (84 FR 29433, 29434 (June 24, 2019)) describing the Department's proposal in that context to allow States the flexibility to use different types of personnel and staffing models according to their needs. This final rule does not specifically address the Wagner-Peyser Act Employment Service; rather, these rules focus specifically on the application of merit staffing provisions as they pertain to the TAA Program.

One commenter requested clarity on the types of documentation required to demonstrate proof that a rapid response event occurred. In many States, the provision of rapid response is recorded during the intake process, through a cross-match within the State's management information system (MIS), or through another record-keeping database. This rule does not provide a specific documentation requirement. The Department considered the comments received and has finalized the section in this final rule as proposed.

Section 618.330 Assessment of Trade-Affected Workers

Section 618.330 of the proposed rule required States to design an assessment process. Section 239(g)(4) of the Act permits the Department to require initial assessments for all trade-affected workers as part of the TAA Program intake process. States must provide all trade-affected workers an initial assessment after determining that they are individually eligible for the TAA Program as part of the intake process. This meets a necessary component of the requirement at section 239(g)(4) of the Act that each State perform "intake of" trade-affected workers covered by a petition. Intake includes these assessments but also the collection of demographic information for reporting purposes. The initial assessment must include an evaluation of a trade-affected worker's skill levels (including literacy, numeracy, and English language proficiency), abilities (including skills gaps), and supportive service needs.

Paragraph (b)

Proposed paragraph (b) required that States ensure the scheduling of the assessment gives trade-affected workers enough time and information to consider, request, and enroll in training or obtain a waiver of the training requirement for TRA before expiration of the statutory 26-week deadline for enrollment in training.

One commenter suggested revising the language of § 618.330(b) on the scheduling of an initial assessment to avoid a conflict with the Department's proposed changes for staffing flexibility at § 618.890 which would allow for the assessment to be scheduled and provided by parties other than the State. The final rule uses the term "State" because it is the State, bound by the Governor-Secretary Agreement, that is ultimately responsible for the provision of services and benefits under the TAA Program. That does not mean, however, that the services cannot be provided by other non-State entities acting on its behalf. The Department has not made any changes to the regulatory text in response to this comment.

The same commenter suggested a language change to help clarify that this requirement only applies to trade-affected workers found eligible for the TAA program under § 618.820(a). As provided in § 618.110, a trade-affected worker is a member of a worker group found individually eligible for the TAA Program. Therefore, no change to the regulatory text is needed to meet the commenter's concern.

However, the Department has made a minor edit to the regulatory text to change the use of a pronoun.

Paragraph (e)

Proposed paragraph (e) discussed what to do if a partner program conducts the assessment(s). The use of partner programs' assessments can increase efficiency, ensure that workers quickly receive appropriate reemployment services, and quickly identify those workers requiring a more comprehensive and specialized assessment of their skills. The Department recognizes that the lack of uniform requirements for assessments means that some assessments conducted by partner programs may not meet all TAA Program requirements for an initial assessment. If so, the State must supplement those partner program assessments with additional information to comply with § 618.335.

The same commenter who recommended revising proposed paragraph (a) similarly recommended changing part of § 618.330(e) to remove the reference to the State, again saying this change would account for the increased flexibility around staffing. For the reason discussed above, the Department declines to make any changes to the regulatory text in response to this comment.

One commenter stated that an initial assessment will already have been completed as part of the intake process prior to the establishment of an IEP and argued that, as long as the worker's interests, skills, and capabilities are sufficiently documented, this should suffice, thus avoiding the need for additional forms and paperwork that would burden case managers unduly. A different commenter said that the increased focus on data-driven AAW assessments would require administrators to allocate more resources to technical staff and systems. Analysis of State expenditure levels over the past several years shows that there are sufficient financial resources available to the States to meet these requirements. Also, the development and enhancement of an integrated service model within the one-stop delivery system reduces duplication of effort. As stated earlier, it is possible for intake, initial assessment, and establishment of an IEP to be developed at the same time. These efforts must be documented in a worker's case file, but the Department has not prescribed standard forms or formats of those documentation requirements.

The Department considered the comments received and adopts the section in this final rule as proposed.

Section 618.335 Initial Assessment of Trade-Affected Workers

Section 618.335 of the proposed rule implemented section 239(g)(4) of the Act. The WIOA implementing regulations at 20 CFR 678.430(a)(3) mirror the statutory language in WIOA section 134(c)(2)(A)(iii) on initial

assessments. Section 618.335 aligned the TAA Program with WIOA and provides the requirements for an initial assessment of trade-affected workers. The first step in the process is to determine whether the worker will need employment and case management services and training. The State must provide TAA Program benefit information to trade-affected workers no later than at the time of the initial assessment, as discussed in § 618.816(f). However, the State may provide this information to a worker even earlier, upon receiving a notice of a certified petition covering that worker.

The Department received support for this provision from several commenters. An LWDB stated that ensuring workers have access to individualized assessments was an improvement and commented that the language at § 618.335 mirrors language in the WIOA regulations. A different commenter said the requirement to provide a comprehensive IEP for TAA-eligible workers would help workers navigate complex decisions and choices related to reemployment planning.

Multiple commenters argued that requiring an initial assessment for all trade-affected workers would increase overall costs and may not be needed or valued by workers in all cases. The explicit requirement for assessment is not a change from current operations. The statute requires the provision of employment and case management services to all trade-affected workers, and these requirements include intake and orientation activities.

The same group of multiple commenters requested clarity on whether the initial assessment requirement would apply only to trade-affected workers interested in training or to all trade-affected workers. The Department clarifies that an initial assessment is required for all trade-affected workers, not just those interested in training. Initial assessments are also valuable to those workers who only will receive employment and case management services.

A State workforce agency recommended that RTAA customers be exempted from a skill level assessment, since they are already employed full-time and may have to miss work to participate in literacy and numeracy assessments. The Department has considered the proposal to exempt RTAA from the initial assessment requirement; however, since RTAA also allows workers to participate in TAA approved training while reemployed and because assessments are generally conducted at intake, before RTAA eligibility has been established, this provision is adopted in the final rule as proposed. In accordance with § 618.330(f), a worker may refuse an assessment.

One commenter recommended the Department refrain from creating unintended barriers to occupational training as it develops standards for assessments and referrals to employment services. The same commenter offered several suggestions to improve procedures around the comprehensive and specialized assessment afforded to workers who disagree with their initial assessment, including respecting trade-affected workers' right to training, considering the duration and depth of a worker's job search, assessing employment suitability, establishing timeliness standards, giving workers the opportunity to decline diagnostic testing, and explicitly stating that aligning the process with WIOA's initial assessment process is meant to increase coordination and decrease duplicative work rather than limit access to training. The Department reiterates that this final rule has aligned the regulatory text with WIOA regulations wherever possible. In addition, the Department continues to encourage service integration between all partner programs. This final rule does not establish duplicative requirements or barriers to training.

One commenter raised concerns about the potential for the Department's new standards for assessments and referral to employment services to erect barriers to occupational training. The same commenter stated that the proposal does not require that the initial and comprehensive and specialized assessments occur ''within a reasonable amount of time,'' which, if required, would help facilitate workers' participation in training programs. The commenter expressed concern that the ''two-prong approach'' enshrines the idea that workers need to ''qualify'' for training rather than it being an entitlement accessible to them immediately upon certification. The purpose of assessments is not to create barriers to training, but to ensure that training programs are appropriate for the worker and otherwise meet the criteria for approval of training in § 618.610. The criteria for the approval of training in § 618.610 are largely unchanged from the previous rules. The proposal described the requirement for assessments to be conducted and for determinations on enrollment in training to be based on those assessments. This is not a barrier to enrollment in training, but an assurance that the selected training is appropriate for the worker and likely to lead to employment.

The same commenter stated that the proposed assessments could place excessive administrative burden on workers seeking training, who, the commenter said, currently face an already complex system. The commenter also asserted that, while greater alignment with WIOA is praiseworthy, ''complete adoption'' of WIOA's assessment process would not be appropriate for the TAA Program and could lead to the ''rationing'' of training. To address these concerns, the commenter recommended that the Department merge §§ 618.335 and 618.345 into one section that does the following:

- Affirms the purpose of the assessment process as matching a worker with the best training opportunity;
- Prevents delays in workers' access to benefits for which they are eligible;
- Avoids prolonging unemployment (*i.e.,* because of ''lag time'' between different steps in the process);
- Requires States to provide initial and comprehensive and specialized assessments at the same time (*e.g.,* within 10 days);
- Ensures that IEPs are completed reasonably soon after assessments occur; and
- Makes clear that alignment with WIOA's approach is not meant to create barriers to accessing training.

The Department is not establishing a sequence of services or specific timelines. The initial assessment, comprehensive and specialized assessment, and IEP, could be accomplished in the same case management session. In fact, some of these elements may have already been performed by partner programs. As these services are already being provided by States, these explicit requirements provide clarity to the States, not additional processes. Appropriately administered, these services will potentially shorten durations of unemployment and result in better outcomes for trade-affected workers. The Department has determined the goals outlined in the comment are already met in the regulations, so the provision is adopted in the final rule as proposed, with the exception of an edit related to the use of a pronoun in paragraph (b)(2).

Paragraph (c)

Proposed paragraph (c) explained the State's options for service strategies based on the information gathered from the initial assessment. This involves first making a determination of whether

or not there is suitable employment available to the trade-affected worker and then identifying the options for moving forward.

A State workforce agency recommended changing part of § 618.335(c)(1) by editing the language related to providing employment and case management services to account for the proposed increase in staffing flexibility provided at § 618.890. The same commenter suggested making similar changes to § 618.335(c)(2), which discusses making comprehensive and specialized assessments available, to account for such flexibility. The commenter said the language at § 618.335(c)(1) and (2) was confusing because it seems to indicate that making certain services available depends on determinations regarding suitable employment. The commenter said that, since § 618.345 requires comprehensive and specialized assessments for all trade-affected workers, § 618.335(c)(1) is inconsistent in stating such assessments will be made available ''[i]f the worker disagrees with the determination.'' Subpart C defines ''make available'' to mean that the service must be provided if appropriate for the worker or if requested by the worker.

The language in 618.335(c)(1) proposed that after conducting the initial assessment, a State may already have sufficient information to determine whether suitable employment exists. If it does, training cannot be approved and the State should ensure that additional employment and case management services are provided to assist the worker to obtain the suitable employment. The provision of (c)(2) would apply where the determination is made that there is no suitable employment available to the worker. An initial assessment is required as part of intake of AAWs and AAIWs (trade-affected workers) applying to enroll in TAA Program benefits and services. If a partner program has already conducted an assessment, it should not be duplicated. If a worker does not seek enrollment in the TAA Program, then neither intake nor an initial assessment is required. With respect to staffing flexibility, these rules use the term ''State'' because it is the State, bound by the Governor-Secretary Agreement, that is ultimately responsible for the provision of services and benefits under the TAA Program. That does not mean, however, that the services cannot be provided by other non-State entities. The Department considered the comments received and adopts this section in the final rule as proposed.

Section 618.345 Comprehensive and Specialized Assessment of Trade-Affected Workers

Section 618.345 of the proposed rule implemented section 235 of the Act. WIOA section 134(c)(2)(A)(xii) and its implementing regulation at 20 CFR 678.430(b)(1) require States to provide comprehensive and specialized assessments. WIOA draws a distinction between basic career services and individualized career services as individualized career services only are required to be provided if it is determined appropriate. Section 618.345 aligned the TAA Program with WIOA.

Proposed paragraph (a) required States to make available comprehensive and specialized assessments to all trade-affected workers. Proposed paragraph (b) provided requirements for the content of the comprehensive and specialized assessments. Proposed paragraph (c) reiterated WIOA's regulations and was meant to ensure that States have the information needed to help workers select appropriate training and a viable future career, thus increasing their chances of successfully completing training and finding sustainable employment. Proposed paragraph (d) allowed States to use information from the comprehensive and specialized assessment to determine whether training can be approved under the criteria listed in subpart F.

One commenter recommended changing § 618.345(a) by qualifying the term ''all trade-affected workers'' with ''determined eligible for TAA Program benefits under § 618.820(a).'' The same commenter also maintained that the language at § 618.345(c) discussing training opportunities and requirements for training participation was more appropriate for § 618.330(b), because an initial assessment is required to access the training benefit, but a comprehensive and specialized assessment is optional. The commenter further suggested that, to remain consistent with the language at § 618.330(e), the Department should require the use of comprehensive and specialized assessments to determine whether workers meet the six criteria for training approval. The Department reiterates that in accordance with §§ 618.335 and 618.345, States are required to ensure that every trade-affected worker has an initial assessment and that a comprehensive and specialized assessment has been made available to him or her. As discussed in subpart F, a State may have sufficient information available to approve training under subpart F without a comprehensive and specialized assessment or development of a full IEP. The Department considered requiring a comprehensive and specialized assessment, as well as requiring an IEP, prior to the State approving training under subpart F; alignment with WIOA, however, took precedence as it is a primary goal of these regulations. The Department is finalizing this section in the final rule as proposed, except for a technical correction in § 618.345(b), replacing the plural possessive pronoun ''their'' with the singular possessive noun ''worker's.''.

Section 618.350 Individual Employment Plans for Trade-Affected Workers

Section 618.350 requires that States make IEPs available to trade-affected workers and details what must be included in an IEP and States' responsibilities with regard to monitoring and updating IEPs. Requirements related to IEPs were previously located in 20 CFR part 617. The NPRM proposed to revise and combine two separate paragraphs of 20 CFR part 617, regulations covering training programs at 20 CFR 617.20(b)(8) and reemployment plans at 20 CFR 617.20(b)(13), and to implement a new process for making IEPs available for trade-affected workers.

Proposed paragraph (a) required States to make available an IEP to all trade-affected workers and required the establishment of an IEP for workers who apply for training under subpart F or a job search allowance under subpart D. Proposed paragraph (b) required that the IEP use the results of the initial assessment and, if available, comprehensive and specialized assessments to inform and document a service strategy that provides the trade-affected worker with needed services for reemployment. Proposed paragraph (c) provided the required elements of an IEP. The IEP must be developed jointly between the State and the trade-affected worker. These elements are required because they cover most aspects of the training and reemployment process. Proposed paragraph (d) explained that the IEP can be developed by a partner program, but it must be supplemented to include the elements required in proposed paragraph (c) if the IEP does not already include them. This reduces duplication of services while still meeting program-specific needs.

Proposed paragraph (e) required States to monitor the worker's progress toward meeting the IEP's elements. Proposed paragraph (f) required States to modify the IEP as necessary, and with

the worker's input. States also must modify the IEP when there is a change to the trade-affected worker's approved training program or revisions to receipt of subsistence and transportation payments. Proposed paragraph (g) explained that a trade-affected worker seeking a job-search allowance under subpart D or training under subpart F may refuse to participate in the IEP process. However, the trade-affected worker must provide sufficient information, either through a partial IEP or outside of the IEP process, for States to make a determination on the six required training approval criteria or the job search allowance application criteria. Failure to do so will result in denial of the training program or allowance. A trade-affected worker so denied can appeal the training denial, in accordance with provisions in subparts D, F, and H.

One commenter stated that the proposed rule's discussion of employment plans does not mention ''measurable skill gains.'' The Department clarifies that measurable skill gains is not one of the statutory primary indicators of performance for the TAA Program, and thus is not covered in the regulatory text.

The same commenter also stated that there was no mention of the use of O*NET for the development of employment plans. Although O*NET is not specifically included in the regulatory text of § 618.350, it is mentioned in § 618.635, the provision related to work-based training, and the Department maintains that O*NET is a valuable source of information and tools for States and workers to use in developing IEPs, conducting assessments, and providing other employment and case management services to workers.

One commenter said the new requirement in § 618.350(a)(1) that trade-affected workers receive an IEP would lead to improvements in case management services for such workers. The commenter stated that some trade-affected workers might not need training to secure suitable employment and said the TAA Program should not be a ''one-size-fits-all'' program. The Department concurs and appreciates the support.

One commenter requested clarity on the meaning of the Department's proposal at § 618.350(f)(1) that States must modify an IEP as necessary to facilitate a successful outcome for the trade-affected worker, because § 618.350(c)(2) indicates that an IEP documents the training program ''proposed.'' The commenter claimed that the Department later switches to refer to ''pursued'' training. This commenter asked whether this change in language was intended to indicate that new targeted occupations or training programs could be identified at a later date even after a worker has already begun training for a different occupation. The Department explains that the term ''pursued training'' does not appear in the regulatory text as proposed or in the final rule. In response to the commenter's question regarding whether a worker could change his or her training program to pursue a change in occupational goals, under the right circumstances such a change could be appropriate. Section 618.665 of the final rule addresses the circumstances under which an approved training program may be amended. Any change, of course, must be documented in the worker's IEP. The Department anticipates a high demand for technical assistance related to amending training programs and the relationship to IEPs. Technical assistance will be provided on these topics.

One commenter suggested several revisions to the language found within § 618.350 to promote consistency with other changes proposed related to the increased flexibility associated with the use of non-merit staffing. This commenter recommended changing the language in § 618.350(a) from ''A State must'' to ''A State must ensure'' an IEP is made available to workers to account for the added flexibility of using non-merit staffing. The commenter also recommended revising the second sentence of § 618.350(d) by removing the words ''by the State'' to allow for the added flexibility to use non-merit staffing. The sentence would state, ''If the IEP does not contain the components, the IEP must be supplemented, in conjunction with the worker, to ensure it is fully compliant with the TAA Program requirements in this part.'' Similarly, the commenter recommended changing the language at § 618.350(e), (f)(1), and (g) to provide that States, rather than carry out directly certain activities described therein, must ''ensure'' the activities occur, again to account for the added flexibility to use non-merit staffing. With respect to staffing flexibility, the Department explains that this final rule uses the term ''State'' because it is the State, bound by the Governor-Secretary Agreement, that is ultimately responsible for the provision of services and benefits under the TAA Program. That does not mean, however, that other non-State entities cannot provide the services. No changes to the regulatory text were made.

The same commenter recommended removing ''and industry'' from proposed § 618.350(c)(1), which required that the IEP include the trade-affected worker's employment goal, including the targeted occupation and industry, since many occupations intersect with several different industries. More broadly, the commenter suggested the main thrust of this provision should be ''identifying the targeted occupation'' for purposes of the IEP. After considering this comment, the Department is retaining the reference to industry. While the occupational goal is the determining factor to be used in assessments and approval of training, the identification of an industry is also helpful in assisting a trade-affected worker in seeking employment and selecting appropriate training, if needed.

The same commenter stated that there was a disconnect between the proposed language at § 618.350(e) and (c), because the former requires the State to monitor workers' progress in meeting responsibilities, but the latter does not require that worker responsibilities be documented in the IEP. The same commenter also said that the requirement at § 618.350(c)(2) to include ''The type of training proposed, if any,'' in an IEP was too generic and suggested revising it to state, ''The specific training program proposed, if any,'' because identifying the specific training program would aid the State in identifying suitable services and supplemental assistance needs. The Department agrees and has modified the regulatory text at § 618.350(c)(2) in the final rule to require the State to document the training program proposed in the IEP and has added a new paragraph (c)(5) to this section to require that the IEP document the trade-affected worker's responsibilities under the plan. The addition of paragraph (c)(5) is an acknowledgment that the trade-affected worker has an active role and responsibilities in the IEP process.

The same commenter sought clarification as to why an IEP was required for the job search allowance, but not for the relocation allowance. This distinction, however, is based on language in the Act. For a relocation allowance to be payable, a worker must have already secured new employment. When applying for a job search allowance, the worker is still seeking employment, which gives rise to the requirement for an IEP. The final rule adopts this section as proposed, with the exception of the minor updates to IEP documentation requirements in § 618.350(c)(2) and (5).

The Department is finalizing the section in the final rule as proposed, except for the changes noted above.

Section 618.355 Knowledge, Skills, and Abilities of Staff Performing Assessments

Section 618.355 is a new provision that has no comparable counterpart in previous regulations or in administrative guidance. It requires that the staff performing assessments of trade-affected workers possess certain knowledge, skills, and abilities in order to effectively provide employment and case management services to trade-affected workers. This provision is essential to ensuring that requirements under section 235 of the Act are fully implemented and that States provide high-level services. The NPRM proposed at paragraph (c) of this section that funds available under section 235A(1) of the Act may be used to improve and maintain the knowledge and ability of staff conducting assessments.

An LWDB asked whether TAA Program funds could be used to train employees at partner agencies (citing WIOA's dislocated worker program staff as an example) that perform assessments for trade-affected workers. The use of TAA Program funds in this manner is already an allowable cost under the TAA Program and will continue to be so under this final rule. The Department adopts this new provision into the final rule as proposed.

Section 618.360 Employment and Case Management Services for Trade-Affected Workers in Training

Section 618.360 of the proposed rule was a new provision that had no comparable counterpart in previous regulations and was added as a result of TAA Program oversight and monitoring the Department conducted. This section required States to continue to make employment and case management services available to all trade-affected workers considering training (and for AAWs on a waiver from training in accordance with subpart G), taking TAA approved training, or who have completed training.

A nonprofit public policy organization expressed support for the Department's clarification in the proposed rule that States must make employment and case management services available to workers who are in or have completed training, or are considering training, because continued employment and case management services will help workers overcome barriers to completing training programs. The Department has made two nonsubstantive edits to this section of the final rule to remove the use of parentheses, remove some repetitive language, and replace the word ''upon'' with ''after,'' and otherwise adopts § 618.360 as proposed.

D. Subpart D—Job Search and Relocation Allowances

Subpart D governs job search and relocation allowances, which are authorized, respectively, under sections 237 and 238 of the Act. Subpart D proposed to consolidate provisions contained in subparts D, E, and F of 20 CFR part 617, which implement these allowances. Subpart D proposed to largely preserve the 20 CFR part 617 requirements for job search and relocation allowances, with a few substantive changes to reflect a statutory increase to the limit for job search allowance reimbursement per AAW and per certification to $1,250 from $800; an increase in the maximum lump-sum payment for relocation to $1,250 from $800; and the definition of ''suitable employment'' as used in the eligibility requirement for both job search and relocation allowances, explained below. Subpart D also proposed procedural changes from 20 CFR part 617.

Finally, subpart D proposed to continue to require the use of the FTR at 41 CFR chapters 300 through 304, in determining amounts to be paid to or on behalf of workers by States for travel, subsistence, and transportation benefits to eligible AAWs. This is not a new requirement; the Department already requires use of the FTR for specified purposes in 20 CFR 617.34, 617.42, and 617.45 through 617.47. Nevertheless, there has been confusion in some States as to what travel requirements apply to the TAA Program. Subpart D, in expanding references to the FTR, proposed clarifications that workers using job search and relocation allowances are subject to the same Federal travel rules as employees of the Department.

The Department is finalizing this subpart in the final rule as proposed, except as noted below. Where the Department received comments on specific paragraphs within a section, details of those paragraphs as proposed in the NPRM are included to provide context for the discussion of comments that follows. No comments were received on proposed § 618.400, and the final rule implements this section as proposed.

Section 618.405 General

A commenter suggested adding examples of allowable activities that could be funded under a job search allowance. The Department has added a non-limiting list of examples of allowable activities to the rule text, though which activities are allowable may vary depending on the needs of the individual. Some examples of activities that may be funded with a job search allowance are: travel to and attendance at job fairs and interviews; travel to and attendance at prevocational workshops; making an in-person visit with a potential employer who may reasonably be expected to have openings for suitable employment; completing a job application in person with a potential employer who may reasonably be expected to have openings for suitable employment; going to a local one-stop, copy shop, Post Office, or similar entity to print, copy, mail, email, or fax a job application, cover letter, and/or a resume; going to a local one-stop, public library, community center, or similar entity to use online job matching systems, to search for job matches, request referrals, submit applications/resumes, attend workshops, and/or apply for jobs; and, attending a professional association meeting for networking purposes.

Section 618.410 Applying for a Job Search Allowance

Section 618.410 proposed the same application process that is described in 20 CFR 617.31, but proposed changes to the instructions on when to file an application. Under 20 CFR 617.31(b), an AAW who is covered under a petition and who is totally or partially separated may apply for a job search allowance before or after the Department issues a certification. Proposed § 618.410 changed these procedures to require that a State accept applications for job search allowance only after the Department has issued a certification.

A State workforce agency questioned whether the phrase ''who has a total or partial separation'' is required in paragraph (b) of this section, since the definition of AAW contains that concept.

The Department agrees that this language is unnecessary and has modified the regulatory text of the final rule to remove that phrase and has made other conforming edits in paragraph (b) of this section. This is a nonsubstantive change.

The same State workforce agency also asked whether it was the case that an AAW would need to first apply under § 618.820(a) (determinations on initial applications under applicable State law) before receiving a job search allowance under this section. The Department affirms that the worker would have to submit an initial application to establish

eligibility because § 618.410(b) requires that the worker apply for the job search allowance in advance of conducting the actual job search activity.

A different State workforce agency opposed the proposed elimination in § 618.410(b) of precertification applications for job search allowances, which it understood to impact relocation allowances as well. The State workforce agency said that the change would be unhelpful to workers, because they might not realize that they must apply for allowances before initiating job searches or relocations, and the certification process can last for months. The State workforce agency suggested the Department should amend the provision to allow workers who moved between the impact date and the certification date to remain eligible for relocations allowances to defray costs already incurred.

Workers are not eligible for job search or relocation allowances under the TAA Program until after a certification is issued and they are determined to be AAWs. The Department maintains that it is necessary for States to be made aware of the worker's planned job search and relocation activities, at the outset, to ensure expenditures will be appropriate. The requirement that the FTR apply to AAWs also prohibits eligibility to impacted workers who are not yet covered by a certification. Workers needing job search assistance prior to a petition determination should be referred to WIOA or other partner programs.

No change has been made to the regulatory text in response to these comments. The Department made a nonsubstantive change in paragraph (b) of this section, as discussed above, and otherwise adopts § 618.410 in the final rule as proposed.

Section 618.415 Eligibility for a Job Search Allowance

Section 618.415 proposed eligibility requirements for job search allowances. Section 237(a)(2)(B) of the Act requires as a condition for receipt of a job search allowance that an AAW cannot reasonably be expected to secure suitable employment in his or her commuting area. The Department has made two edits to the use of pronouns in paragraph (a)(1)(i).

Section 618.415(a)(3)

Proposed paragraph (a)(3) of this section substituted the term ''suitable employment'' for ''suitable work'' and eliminated the reference to long-term duration. As proposed, suitable employment may exclude some work—*i.e.,* some lower skilled and lower paying work—that would qualify as suitable work under a State law. Suitable employment is work at a substantially equal or higher skill level paying at least 80 percent of the AAW's previous wage. Suitable employment differs from suitable work because, in most States, suitable work includes jobs with wages, skills requirements, or both that are lower than those in jobs that would qualify as suitable employment under the Act. Proposed paragraph (a)(3) also added ''employment that pays a wage of at least the 75th percentile of national wages, as determined by the National Occupational Employment Wage Estimates.'' This alternative ensures that AAWs who can reasonably expect to find a job that otherwise meets the suitable employment definition except that it pays a wage of at least the 75th percentile of national wages, rather than paying at least 80 percent of the AAW's previous wage, would still be eligible for job search allowances.

Numerous commenters expressed support for the new provision allowing employment that pays at least the 75th percentile of national wages (and meets other requirements) as an alternative to suitable employment as long as its effect is to increase the number of trade-affected workers eligible for job search allowances. One commenter stated that the change would enable more workers to access the benefit, because it lowers the threshold for eligibility, and asked whether the Department planned to clarify further how to use the National Occupational Employment Wage Estimates, saying that its State ''typically has lower wages.''

One commenter said the provision is confusing and stated that it would need training itself before training one-stop center staff in its State on its implementation and also expressed concern about the complexity of the website containing the National Occupational Employment Wage Estimates referenced in the provision, saying it would require training to use it correctly. Another commenter requested clarification about whether the percentile standard is based on all occupations or only the occupation in which the worker is searching for jobs.

The Department explains that, when applying the 75th percentile, the State would use the percentile for the occupation of the job in question. If there are multiple jobs available that might be suitable, the percentile for that specific occupation would apply. The Department will provide training on this provision.

A State workforce agency sought clarification on the purpose of the phrase ''in the area of the job search,'' saying that the definition of ''suitable employment'' does not mention such a restriction. The State workforce agency recommended deleting the phrase from this section.

States are required to review the availability of suitable employment within the area of the job search. As expressed in the NPRM preamble, the Department largely expects this benefit to be used for workers to travel to in-person interviews or job fairs outside of their commuting area. A State must determine that no suitable employment is available to the worker in the commuting area before approving a job search allowance. The Department has made no change to the regulatory text in response to this comment.

Multiple commenters sought clarification on the 75th percentile of national wages via the National Occupational Employment Wage Estimates.

To find the 75th percentile of national wages, as determined by the National Occupational Employment Wage Estimates, visit the U.S. Bureau of Labor Statistics (BLS) web page, select the appropriate State and occupation for the worker, view percentile wage estimates, and locate the 75th percentile. Similar comments were received for the same provision in the relocation allowance section. The Department will provide training on this topic.

A State workforce agency sought an edit to § 618.415(a)(3) that would clarify the requirements regarding the applicability of the definition of suitable employment. The Department has modified the regulatory text by restructuring (a)(3) from a single paragraph into a list for clarity.

Section 618.415(a)(4)

Proposed paragraph (a)(4) of this section established for the first time that the State determines whether an AAW could reasonably expect to find suitable employment through alternatives to a job search allowance, such as by having an AAW search and interview for jobs through electronic means.

One commenter requested clarification about the ''alternatives to being physically present'' part of this provision.

Examples of such alternatives would be telephone or video interviews, but this is not an exhaustive list and the Department encourages States to innovate in serving workers.

The same commenter said its State permits many job search activities to serve as the basis for a job search allowance, including attendance at prevocational workshops or job fairs, ''job matching'' through the State's

system, and ''traditional'' job interviews. The commenter added that the State based these permissible activities on a Department-sponsored webinar. The commenter asked whether the proposed language meant that the State could approve allowances for interviews only.

The Department confirms that all of the examples above could be allowable activities under the job search allowance benefit. In response to this comment, the Department has included a nonexhaustive list of allowable activities in the regulatory text at § 618.405(a).

Section 618.420 Findings Required for a Job Search Allowance

Section 618.420 proposed what a State must find before approving a job search allowance, and further delineates the responsibilities between a liable State and an agent State, when a job search occurs in a different State from the liable State. Proposed subpart H, Administration by Applicable State Agencies, would establish the responsibilities of the liable State and the agent State. Specifically, § 618.824 proposed that the liable State would make all determinations on each claim for program benefits, and the agent State would pay the costs for job search and relocation allowances.

Proposed paragraph (b) of this section added a new requirement that the agent State, when requested by the liable State, must verify with the employer and report to the liable State whether the AAW has obtained suitable employment, or a bona fide offer of suitable employment, and pay the job search allowance.

One commenter expressed concern that involving the agent State in job search allowances would complicate the process and ''frustrate a potentially already frustrated affected worker.'' The commenter recommended keeping the liable State as the party responsible for paying these allowances, asserting it would be more efficient than the Department's proposal. To be clear, if a worker is traveling outside of the liable State for a job search allowance, but is not accessing or receiving any services in the State he or she is traveling to, then the State to which the worker travels is not an agent State. In that scenario, the liable State is also the agent State.

As liable and agent State responsibilities apply to various types of decisions, the Department has aligned the responsibilities in this final rule based on years of feedback and requests for technical assistance as well as reviewing requests for reserve funds. The Department is aligning the agent State's provision of services with funding for those services and is assuring the retention of the policies of the liable State to give strength to a seamless transition for the worker. Further explanation is provided in § 618.824. The Department has made no changes to § 618.420 regulatory text in the final rule as a result of these comments, but edited the section heading for § 618.420 to specifically refer to a job search allowance.

Section 618.425 Amount of a Job Search Allowance

Section 618.425 proposed how to calculate the amount of a job search allowance.

One commenter requested clarification about the meaning of the phrase ''by the usual route'' with respect to the calculation of allowable travel expenses under proposed § 618.425(a)(1).

The Department has determined that the phrase ''by the usual route'' means a route by which most commuters would typically travel. The route is usual if it is a reasonable one and not unduly out of the way. The Department has made no changes to the regulatory text in the final rule in response to this comment.

The same commenter also recommended adding the words ''payment or'' to § 618.425(b), regarding the total limit for a job search allowance, so that it reads, in part, ''the State must reduce the job search allowance by the amount of the payment or reimbursement.'' This suggested language considers that some job search allowance costs may be paid directly to a provider or vendor. In those instances, those costs are not a reimbursement. Upon consideration, the Department has added the recommended language to the regulatory text in the final rule at § 618.425(b). The Department has also made two edits to the use of a pronoun and related subject-verb agreement.

Section 618.430 Determination and Payment of a Job Search Allowance

Section 618.430 proposed to require an AAW to provide supporting documentation upon completion of a job search in order for the State to make payment and requires the State to reimburse the AAW promptly.

Proposed paragraph (d) of this section specified the evidence an AAW must provide to receive a job search allowance. The Department proposed aligning the requirements for documentation with the FTR and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) at 2 CFR part 200. At the time of the proposed rule's publication, receipts were required for all lodging and purchased transportation expenses. A receipt was also required for any expense of $75.00 or greater.

A State workforce agency requested more specificity in paragraph (d) of this section about which sections of the FTR and the Uniform Guidance provide the applicable requirements for documentation of expenses. The State workforce agency also recommended revising the last sentence of this provision to clarify that an ''adjustment'' in cases where the State has advanced the worker more than the allowable amount means the worker must reimburse the State for the difference. The State workforce agency suggested modeling this recommended revision on the language used in § 618.460(c)(2) (*e.g.,* ''the worker must repay any excess received'').

The FTR is maintained by the General Services Administration (GSA) and can be accessed at *https://www.gsa.gov/policy-regulations/regulations/federal-travel-regulation/federal-travel-regulation-and-related-files.* The Uniform Guidance is maintained by the Office of Management and Budget (OMB) and is available at *https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2chapterII.tpl.* After reviewing the suggestion to clarify language in § 618.430(d), the Department concurs with the suggestion to use the same language from § 618.460(c)(2). The Department has made nonsubstantive edits to this section in the final rule, including correction of a cross-reference to the section heading of a different section, edits to the use of a pronoun, and a clarification of the term ''adjustment.''

Section 618.435 Job Search Program Participation

In the NPRM, the Department proposed § 618.435 as a replacement for 20 CFR 617.49 and to implement section 237(c) of the Act which provides that a State may reimburse any AAW for necessary expenses incurred by the worker in participating in an approved job search program (JSP).

Proposed paragraph (c) of this section required that subsistence and transportation costs must be approved, as appropriate, for workers participating in a JSP and the JSP may be within or outside the AAW's commuting area.

One commenter said it was not clear why transportation and subsistence

payments would be provided for travel within the worker's commuting area.

A JSP is different than the job search allowance and is governed by a separate statutory provision. Section 237(c) of the Act provides an exception to the restrictions provided in section 237 governing job search allowances. Thus, the statutory prohibition on paying for transportation and subsistence within the commuting area does not apply to a JSP. The Department has made no change to the regulatory text in the final rule in response to these comments.

Section 618.440 Applying for a Relocation Allowance

Section 618.440 of the proposed rule described the application process for a relocation allowance but differed from 20 CFR 617.41 on when to file an application.

Proposed paragraph (b) allowed an AAW to apply for a relocation allowance only after the Department issues a certification covering that worker. This is consistent with section 238(a)(1) of the Act, which permits ''an [AAW] covered by a certification . . . to file an application for a relocation allowance.'' This mirrored the change for job search allowances reflected in proposed § 618.410, which also does not permit applications until after the Department issues a certification. A State may not issue a relocation allowance or a reimbursement to anyone not covered by a certified petition for any reason. As previously noted in the preamble discussion of proposed § 618.410 regarding job search allowances, the Department proposed this change because permitting precertification applications can raise workers' expectations of payments that may not become available.

Proposed paragraph (b) of this section also contained the requirement that the State may approve the relocation only after an AAW files an application and before such worker undertakes the relocation.

A State workforce agency questioned whether the phrase ''who has a total or partial separation'' is required in paragraph (b) of this section since the definition of AAW contains that concept. The State workforce agency also asked whether it was the case that an AAW would need to first apply under § 618.820(a) (determinations on initial applications under applicable State law) before receiving a relocation allowance under this section.

The Department explains that this question is the same as the one raised under the job search allowances section (§ 618.410) and reiterates that a worker must first be determined to be an AAW prior to submitting an application for a relocation allowance. Furthermore, an application for relocation allowance must be approved by the State prior to the beginning of the relocation. The Department has modified the regulatory text in the final rule to remove the language regarding separations since an AAW has already experienced a separation.

Section 618.445 Eligibility for a Relocation Allowance

Proposed § 618.445 on eligibility for a relocation allowance combined the requirements in 20 CFR 617.42 (Eligibility) and 617.43 (Time of relocation), edited them for clarity, and made several significant changes.

Section 618.445(a)(5)

Proposed § 618.445(a) removed the requirement in 20 CFR 617.42(a)(5) regarding registration with the State agency from the job search eligibility requirements because the Act does not contain a registration requirement for relocation allowance eligibility and because proposed § 618.310 of subpart C, absent from 20 CFR part 617, already required that States make available employment and case management services to all trade-affected workers. Further, proposed paragraph (a)(5) of this section departed from 20 CFR 617.42(a)(6) in three respects. Proposed paragraph (a)(5) of this section substituted a Federal law definition of ''suitable employment'' for ''suitable work'' under State law and eliminated the reference to ''affording a reasonable expectation of employment of long-term duration,'' because the concept of long-term employment is substantially included in the definition of ''suitable employment.'' Proposed paragraph (a)(5) of this section also added ''employment that pays a wage of at least the 75th percentile for national wages, as determined by the National Occupational Employment Wage Estimates.'' This alternative ensures that AAWs who obtain or receive a bona fide offer of a job that otherwise meets the suitable employment definition except that it pays a wage of at least the 75th percentile of national wages, rather than paying at least 80 percent of the AAW's previous wage, would still be eligible for relocation allowances.

Numerous commenters expressed support for the new provision allowing employment that pays at least the 75th percentile of national wages (and meets other requirements) as an alternative to suitable employment as long as its effect is to increase the number of trade-affected workers eligible for relocation allowances. One commenter said the provision is confusing and stated that it would need training themselves before training one-stop center staff in its State on its implementation. The commenter also expressed concern about the complexity of the website containing the National Occupational Employment Wage Estimates referenced in the provision, saying it would require training to use it correctly.

Similar comments to the above were received for § 618.415 under the job search allowance provisions. Section 618.415 proposed the same use of the 75th percentile of national wages as an additional option for determining suitable employment for eligibility of a job search allowance. The comments received on that proposed rule were nearly identical to those in this section. The Department did not revise § 618.445(a)(5) and the final rule adopts paragraph (a)(5) of this section as proposed.

Section 618.445(a)(6)

Proposed paragraph (a)(6) of this section integrated 20 CFR 617.42(a)(7) and 617.43 and simply stated the two statutory 182-day time limits for beginning a relocation, instead of stating that an AAW must begin a relocation ''within a reasonable period'' and later elaborating on what is a reasonable period merely by providing the same deadlines as in this proposed paragraph (a)(6). Proposed § 618.445 omitted references to reasonable period to begin a relocation because the firm deadlines provided for an AAW beginning a relocation are sufficient and render moot the references to a reasonable period.

Two State workforce agencies requested additional guidance on the language in § 618.445(a)(6)(ii), regarding workers who have completed an approved training program, that conditions the time limit on the workers having received supplemental assistance under § 618.640(c) and (d), because the training occurred outside their commuting area. One of the State workforce agencies asked whether this provision would allow only workers who completed training with supplemental assistance extra time in which to begin relocation, thus excluding workers who did not receive supplemental assistance. The same State workforce agency said that such an approach would be ''manifestly unfair'' to workers with employment prospects outside their commuting area. A different commenter asked the Department to keep the time limit for a worker to begin relocation and receive an allowance the same to preserve AAWs' access to services.

While the Department appreciates the commenters' input, the 182-day period after the conclusion of an approved training if the worker received supplemental assistance and transportation assistance is a statutory requirement found in sections 237(a)(2)(C)(ii) and 238(a)(2)(E)(ii) of the Act. The Department does not have the authority to establish a different deadline. Accordingly, the Department declines to revise this section and this final rule adopts this section as proposed, with an edit to the use of a pronoun in paragraph (b).

Section 618.450 Findings Required for a Relocation Allowance

The Department proposed § 618.450 in the NPRM as the counterpart to 20 CFR 617.44 and delineated in this section the responsibilities between a liable State and an agent State with respect to relocation allowances when a relocation occurs to a different State from the liable State. Proposed subpart H established the responsibilities of the liable State and the agent State. Specifically, proposed § 618.824 established that the liable State makes all determinations on each claim for program benefits, and the agent State pays the costs for job search and relocation allowances.

One State workforce agency expressed concern that involving the agent State in relocation allowances would complicate the process unnecessarily and could confuse workers by introducing a party they might otherwise have no need of knowing. Two different commenters requested clarification about the provisions regarding assistance for which an agent State is responsible. One of those commenters expressed confusion about what the proposed language means and asked to which of the following situations it applies: (1) A worker moves to the agent State and then requests a relocation allowance for another move within the agent State; or (2) a worker requests a relocation allowance to move from the liable State to the agent State. Similarly, a different State workforce agency asked the Department to confirm its reading of the provision as meaning that, when an AAW relocates from a liable State, the State to which the AAW moves is the agent State, and the agent State is responsible for the relocation allowance. The same State workforce agency said it would make more sense, in that case, for the liable State to remain responsible for relocation allowance applications and payments. Conversely, the State workforce agency suggested that in cases where the AAW already lives outside the liable State and wants to relocate, whether to a different State or within that same State, then the State of residence should be considered the agent State, thus assuming responsibility for the relocation allowance. Several other commenters were concerned with some of the language regarding agent and liable States.

If a worker is relocating to a State other than the liable State, but not receiving any services in the State he or she is relocating to, then the State to which the worker travels is not an agent State. In that scenario, the liable State is both the liable and agent State and would be responsible for making the payments.

As liable and agent State responsibilities apply to various types of decisions, the Department has aligned the responsibilities in this final rule based on years of feedback and requests for technical assistance as well as reviewing requests for reserve funds. The Department is aligning the agent State's provision of services with funding for those services and is assuring the retention of the policies of the liable State to give strength to a seamless transition for the worker. Further explanation is provided in § 618.824 and the regulatory text is unchanged. The Department has determined that the previous rules in 20 CFR part 617 on this topic were incomplete and, by making agent and liable State activities more consistent in this final rule, there will be less confusion in the States and reduced requests for technical assistance around these areas.

Similar comments were received under the job search allowance provisions regarding which State is responsible for making payments. The Department modified the section heading for this section to reference a relocation allowance and corrected the citation in paragraph (a)(2) to reference § 618.445(a)(1); otherwise, the final rule adopts this section as proposed.

Section 618.455 Determining the Amount of a Relocation Allowance

Section 618.455 in the proposed rule consolidated, reorganized, and updated the previous requirements for determining the amount of a relocation allowance in 20 CFR 617.45 (Amount), 617.46 (Travel allowance), and 617.47 (Moving allowance).

Proposed paragraph (a)(3)(ii) increased the allowable amount of insurance coverage of household goods and effects to $40,000 from $10,000, found in 20 CFR 617.47(a)(1). Proposed paragraph (a)(3)(iii) provided that, if more economical, the State may directly arrange for a carrier and insurer selected by the AAW to move and insure a worker's household goods and personal effects. Proposed paragraph (a)(3)(iii) also provided that the State may make payment of 90 percent of moving and insurance costs directly to the carrier and insurer. Under proposed paragraph (a)(4), a relocation allowance is paid as a lump sum equal to three times the worker's average weekly wage, not to exceed $1,250. The lump sum maximum reflects the statutory limit and is an increase from the $800 maximum provided in 20 CFR 617.45(a)(3).

A State workforce agency asked whether relocation allowances pay for moving equipment, such as boxes and tape, dollies, and car trailers. This is a very fact-intensive inquiry and difficult to answer without additional specific information. The Department refers the State to the FTR and advises it to direct any additional questions to its appropriate regional office who can assist with answering what is a very fact-dependent question.

One commenter supported the proposed increase in the amount of insurance coverage for a worker's household goods from $10,000 to $40,000, arguing that the costs of such goods have gone up considerably since the amount was last revised. A State workforce agency requested clarification about whether a State must follow procurement rules in carrying out proposed § 618.455(a)(3)(iii), under which the State may make direct arrangements to relocate a worker's belongings.

The Department affirms that States are subject to the Uniform Guidance, which requires States to use their non-Federal procurement standards.

Two commenters supported the full amount of a relocation allowance being paid as a lump sum. One of the commenters stated that the amounts available to workers for relocation are still "minimal," but said paying the total allowance in one installment would be more effective than distributing it over time. Similarly citing research showing the importance of income and reemployment supports to displaced workers, the other commenter stated that the financial effects of job loss can be substantial and stated that enhancing access to such supports can help these workers search for jobs more effectively.

The Department concludes that this practice will limit the financial strain experienced by workers as they transition to new employment. The Department has made six minor edits in paragraph (a) related to the use of

pronouns, and otherwise adopts this section in the final rule as proposed.

Section 618.460 Determinations and Payment of a Relocation Allowance

Proposed § 618.460 regarding determinations and payment of a relocation allowance served the same purpose as 20 CFR 617.48 (Time and method of payment), with some changes and reorganization. Nothing in § 618.460 as proposed departed in substance from 20 CFR 617.48 except for the requirements that an AAW be covered by a certification as a condition of the State accepting an application, and that workers submit documentation supporting all lodging, transportation, and meal expenses to be reimbursed by the State. This documentation is required for the same reasons it is required for workers seeking reimbursement of expenses through the job search allowance. Section 618.460 as proposed also reorganized the provisions of 20 CFR 617.48 and revised them for greater clarity.

Proposed Paragraph (c)

Proposed paragraph (c) specified what the AAW must provide for expenses to be reimbursed by a State under a relocation allowance. This specification served to clarify 20 CFR 617.48(b)(1)(ii) by requiring workers to provide documentation in accordance with the FTR and the Uniform Guidance. At the time of the proposed rule's publication, this included receipts for all lodging, purchased transportation, and any expense equal to or greater than $75.00.

Several commenters expressed concerns about advance payments for relocation allowances. Some of these commenters argued that collecting overpayments would be challenging. Those commenters said receipts and evidence of completion should be required for payment and they argued that sometimes the only approach that will guarantee a worker follows the rules and remains in contact with staff is the ''promise'' of future payment, especially if the worker has moved across State lines. Two commenters said compliance with the proposal would require changes to laws, policies and procedures, or systems in States that currently do not allow advance payments. A different commenter said that sometimes moves occur so rapidly that the fiscal department does not have enough time to process the payment in advance. A State workforce agency said that mandating advance payments by States could weaken accountability and encourage fraud. The State workforce agency also stated that tracking receipts after payment has already been received could be burdensome for workers and suggested reimbursement based on known costs as a more streamlined approach. Two commenters said that, if paid in advance of a relocation, workers and their families would be less likely to ''cooperate'' when it came time to submit documentation of the actual costs incurred. One of the commenters suggested instead paying 50 to 60 percent up front with the remainder payable upon completion of the move. A commenter recommended making advance payment optional by replacing the word ''must'' with ''may.''

With respect to the commenters' concerns about the practice of advancing funds to AAWs related to relocation expenses, the Department advises that this is not a new requirement. The goal of this subpart D is to convey the importance of reducing the financial stress placed on workers as they transition to new employment by reducing their out-of-pocket expenses at a time when they may still be unemployed and by minimizing delays caused by reimbursement procedures. The requirement to advance funds is not optional and States may not apply a percentage limit that is not authorized in this final rule. These payments are subject to the overpayment provisions contained in subpart H at § 618.832 and workers should be advised of that at the time the advances are paid.

Another commenter raised similar concerns regarding advance payment of the lump sum benefit. The lump sum benefit, however, does not require repayment as it may assist AAWs with out-of-pocket and incidental moving expenses not directly reimbursed through the relocation benefit.

The Department is finalizing this provision in the final rule as proposed, with the exception of an edit to the use of a pronoun.

Other Comments on Determinations and Payment of a Relocation Allowance

A State workforce agency requested clarification about how to calculate and administer relocation allowances. A different State workforce agency asked for more specificity in paragraph (c)(2) as to which sections of the FTR and the Uniform Guidance contain the applicable requirements for documentation of expenses. The Department refers the States to 41 CFR part 302, which provides the applicable regulations for relocation costs.

Paragraphs (d) and (f)

Proposed paragraphs (d) and (f) incorporated the provisions from 20 CFR 617.48(b) and (d).

One commenter expressed confusion about the intent of paragraph (d)(1) of this section, regarding the use of commercial carriers to move a worker's belongings, and stated its interpretation of the provision as follows: If the AAW is the one paying the carrier and insurer, then the State must advance payment to the AAW, but if the State is paying, then it must pay the carrier and insurer directly before the scheduled shipment. The Department also made a similar change in § 618.460(c) to make the same clarification for payment of travel allowances. The same commenter said that if this interpretation is correct, then the Department should rewrite the provision to make that meaning clearer.

After considering this comment, the Department concludes that the regulatory text in § 618.460(d)(1) could be clearer and has moved the provision proposed as § 618.460(d)(1)(iii) to § 618.460(d)(1) and rephrased it to clarify that, if the State is paying for the commercial carrier, that payment must be made in advance. The Department also made two edits to the use of pronouns in paragraph (d).

The same commenter also said it was ''unsure about the logic'' of the final sentence in paragraph (d)(1) of this section. Specifically, the commenter asked whether it means that payment must be made either exactly 10 days before shipment or at the time of shipment, but cannot be made at any point in between. Finally, the commenter questioned whether the purpose of the provision was to bar payment more than 10 days before shipment or to require payment within 10 days before shipment, and it said the latter framing would correspond to language in paragraph (d)(2) of this section. The Department agrees that this section could be clearer. A 10-day advanced payment window was established in order to limit the financial impact on workers during a time of transition to new employment.

The Department has moved the provision proposed in § 618.460(d)(1)(iii) to § 618.460(d)(1) and rephrased it to clarify that the payment must be made no earlier than 10 days in advance and no later than at the time of the scheduled shipment.

The same commenter also requested clarification about paragraph (f), concerning when relocation is considered complete, asking whether it is the case that delivery of belongings to temporary storage completes relocation, but only if the storage is within the area of relocation (as opposed to the area from which the worker moved). The commenter suggested that the first sentence could be clarified by reversing

the order of the ''area of relocation'' and ''temporary storage'' clauses so that it reads as follows: ''An AAW completes a relocation when the worker and family, if any, along with household goods and personal effects are delivered to the new residence or to a temporary storage within the area of relocation.'' While in most cases the commenter is correct that the relocation is completed when the last of the household goods are delivered to the new residence, to maintain the flexibility to fit all applicable workers, the Department did not further define the completion of a relocation because this will vary from worker to worker. The Department made a minor edit to the use of a pronoun in paragraph (e).

E. Subpart E—Reemployment Trade Adjustment Assistance

Subpart E governs RTAA. TGAAA established the RTAA program to replace the demonstration project known as ATAA, established by TAARA 2002. This subpart prescribes regulations implementing provisions in section 246 of the Act and incorporates administrative guidance. Before subpart E, there were no regulations covering the RTAA program.

RTAA provides wage supplements to eligible AAWs, aged 50 and older, who return to work earning less than their adversely affected employment and $50,000 or less per year. AAWs receiving RTAA also may be eligible to receive employment and case management services, job search and relocation allowances, and TAA approved training. If the HCTC benefit is available, RTAA recipients are eligible to apply for or claim the HCTC. The goal of RTAA is to encourage reemployment for older workers who may find it difficult to secure a new job that pays as much as their old job.

Section 246(a)(3) of the Act sets forth the eligibility criteria for RTAA. An AAW is eligible for RTAA after beginning a new, full-time job at a firm other than the one from which the AAW was separated (or combination of jobs at firms that equate to full-time employment) that pays less (or collectively pays less if a combination of jobs) than the AAW's adversely affected employment, or after beginning TAA approved training while reemployed at least 20 hours per week at a new job with a firm other than the one from which the AAW was separated.

Compared to ATAA, RTAA expands the range of benefits available by permitting training while receiving RTAA, and by allowing receipt of RTAA after such training is completed, if the AAW otherwise meets eligibility requirements. This subpart E permits eligible AAWs to remain eligible for RTAA when employed part-time, provided that the AAW is enrolled in TAA approved training. Some AAWs may receive a TRA, the income support component of the TAA Program, before receiving their first RTAA benefit payment. For such workers, section 246(a)(4) of the Act requires reduction in the RTAA eligibility period by the number of weeks of TRA received as well as a reduction in the maximum RTAA amount payable.

Where the Department received comments on specific paragraphs within a section, details of those paragraphs as proposed in the NPRM are included to provide context for the discussion of comments that follows. No comments were received on proposed §§ 618.500 and 618.530, and the final rule implements these sections as proposed.

Section 618.500 Scope

Proposed § 618.500 set forth the scope of this subpart. It included an explanation of what RTAA is, and explained that this subpart identifies the eligibility criteria and the benefits available to AAWs who are eligible for RTAA.

The Department received no substantive comments on this section. Accordingly, it is adopted into the final rule as proposed.

Section 618.505 Individual Eligibility

Section 618.505 as proposed enumerated the eligibility criteria for RTAA, as set forth in section 246 of the Act.

Paragraph (a)

Proposed paragraph (a) outlined the general age, wage, and reemployment requirements to be eligible for RTAA. Proposed paragraph (a)(4)(i) codified that the determination of whether an AAW is employed full-time is based on the definition of full-time employment in the State in which he or she is employed.

One commenter wrote that the wage cutoff of not more than $50,000 in § 618.505(a) should be reconsidered, recommending that it either be set to the 75th percentile of national wages according to National Occupational Employment Wage Estimates or based on workers' ''customary job classification.'' The same commenter maintained that RTAA should protect workers who accept lower paying jobs rather than partial separation. Another commenter wrote that the salary cap and compensation available to RTAA recipients should be raised in light of wage increases since 2002. The Department reiterates that the limit on earnings for RTAA recipients is set by statute at section 246(a)(3)(B)(ii) of the Act, as is the total amount of the benefit, which is set by section 246(a)(5)(A)(i) of the Act. The Department does not have the authority to increase either of these limits. However, the Department has revised the regulatory text in § 618.505(a)(2) to remove the word ''calendar'' and to add language regarding the projection of earnings. The language regarding projected earnings has also been added to § 618.505(a)(3).

One commenter wrote that proposed § 618.505(a)(4)(i) appeared to conflict with TAARA 2015, which it said allowed full-time RTAA participants to participate in the TAA Program as well. There is a statement contained in § 618.505(a)(4) that it is *either* full-time employment *or* a combination of employment and training that provides eligibility.

The same commenter added that the provision also appears to be contradicted by proposed § 618.520(b), which provided that RTAA recipients are eligible for TAA Program employment and case management services and training. The Department reiterates that RTAA participants are eligible for employment and case management services and training. The regulatory text at § 618.505(a)(4)(i) does not exclude workers who are employed full-time and also enrolled in training; it is intended only to make clear that workers employed full-time that otherwise meet the RTAA requirements need not be in training to receive the benefit.

A nonprofit public policy organization supported providing wage insurance to part-time workers receiving TAA approved training, writing that doing so will help workers balance work and education. The Department appreciates the commenter's support.

Paragraph (b)

Proposed paragraph (b) explained terms specifically for the purposes of RTAA. As explained in more detail in the preamble to subpart A in the NPRM, the proposed definition of ''firm'' revised the term at 29 CFR 90.2. Of note, the proposed definition of ''firm'' incorporated the definition set forth at section 247(3) of the Act. Pursuant to the Act, the term ''firm'' means ''a firm, including an agricultural firm or service sector firm; [or] an appropriate subdivision thereof.'' Therefore, the term ''firm'' in the RTAA context means ''firm or appropriate subdivision.''

Proposed paragraph (b)(1) provided instructions to States on how to make decisions relative to determining RTAA

eligibility based on whether or not the Department issued a certification for a subdivision of a firm or the entire firm. Proposed paragraph (b)(2) explained that the term ''firm'' includes predecessors and successors-in-interest, affiliated firms, and continuity of operations at the same location. The proposed regulatory text established several criteria in descending order that the State should apply to determine whether one firm is a successor-in-interest to another, including a list of conditions at paragraphs (b)(3)(i) through (vii) that a State may need to consider when rendering a determination. The intent of this provision was to assist States in determining whether the AAW has become employed by a ''firm'' that is different from the ''firm'' from which the worker was separated in accordance with section 246(a)(3)(B)(iv) of the Act.

A commenter wrote that proposed § 618.505(b)(2)(iii) has two seemingly contradictory statements on the RTAA eligibility of workers reemployed with a successor-in-interest to their former firm. The same commenter also questioned why these statements are located in § 618.505 and suggested relocating them to ''another section'' without specifying which one. The Department found no contradiction in the regulatory text. The intent of the regulation is to prohibit a situation where a firm is sold to a successor-in-interest and the AAWs' wages are then cut, resulting in the payment of RTAA to continue to provide workers with similar wages and shifting the burden from the employer to the government.

One commenter asked for further guidance on the term ''continuity,'' as used in proposed § 618.505(b)(3). The commenter also asked if the term ''majority'' should be interpreted to mean that at least four of seven criteria apply. The Department is choosing not to define either of these terms in regulatory text to allow flexibility for States to interpret the test. With regard to continuity, there may be a short gap in operations from the firm to the successor.

The Department has added, for purposes of RTAA, a definition of the term ''year.'' For purposes of RTAA, a year represents the 12-month period beginning with the first full week of qualifying reemployment. This definition was added to resolve the issues with earnings projections for eligibility and continued eligibility in § 618.515(a)(3).

Paragraph (c)

Proposed paragraph (c) explained that, for purposes of RTAA, full-time employment is defined by the law applicable to the State in which the reemployment occurs. The Department proposed to define State law in § 618.110 as the State UI law. Proposed paragraph (c)(1) explained that if State law does not contain a definition of full-time employment, the State is required to define full-time employment for RTAA purposes. Proposed paragraph (c)(2) required the State to verify reemployment in accordance with State policies. Verification of the firm can occur by such communication methods as email, phone call, certified letter, or other means determined by the State. Proposed paragraph (c)(3) established that if an AAW has multiple jobs, the State must combine hours of all employment to determine whether the worker meets the definition of full-time employment. Proposed paragraph (c)(4) provided that if the worker is employed in more than one State, the State must apply the State law with the lowest threshold of hours required for full-time employment.

A State workforce agency recommended altering § 618.505(c)(4)(i) (the Department believes the commenter is referring to § 618.505(a)(4)(i)) to make the applicable definition for ''full-time employment'' correspond with that of the liable State, rather than the State in which the AAW is employed. The Department explains that the liable State must still make the determination based on the definition of full-time employment of the State in which the AAW is reemployed. The Department is making no change to this practice.

A State workforce agency recommended that workers at successor-in-interest firms be eligible for RTAA when they work for reduced wages, arguing that they should be able to accept suitable employment without risking their UI benefits. The State workforce agency said that this practice could help older workers especially find reemployment while receiving modest RTAA subsidies. The Department declines to adopt this suggestion and is making no change to regulatory text as proposed because section 246(a)(3)(A)(iv) of the Act expressly prohibits payment of RTAA to an AAW who is employed at the firm from which he or she was separated, and a successor-in-interest, as defined in this final rule, is considered to be the same firm.

One commenter wrote that, regarding the requirement in proposed paragraph (c)(1) that States define full-time employment, the commenter was currently using a definition from adjudicatory decisions rather than from a State statute, as no such statute had yet been passed. The Department advises that if there is no definition of full-time employment in applicable State law, use of adjudicatory decisions or similar determinations would be appropriate. The State also is permitted, under § 618.808 to establish a definition for TAA Program purposes.

Paragraph (d)

Proposed paragraph (d) provided that an application or eligibility for UI is not needed for RTAA purposes. There is no direct relationship between UI and RTAA. Eligibility for RTAA is not dependent on eligibility for UI. No comments were received on this paragraph.

Paragraph (e)

Lastly, proposed paragraph (e) explained the types of employment that are considered qualifying reemployment for RTAA. Proposed paragraph (e)(1) established that qualifying reemployment under RTAA is the same as covered employment for UI purposes. Proposed paragraph (e)(2) explicitly allowed a State to consider employment that provides wages plus commission, and piecework-based employment to be reemployment when determining RTAA eligibility. The Department proposes to authorize these specific types of employment to ensure that States are not limiting reemployment opportunities. Proposed paragraph (e)(3) provided that qualifying reemployment may include multiple jobs. In some instances, an AAW may have multiple part-time jobs instead of a single full-time job. This flexibility will allow AAWs to combine multiple part-time jobs to be considered full-time employment. Proposed paragraph (e)(4) provided that the State must count hours in which an RTAA-eligible worker is on employer-authorized leave as hours of work for purposes of meeting the full- or part-time employment definitions of this section, provided that doing so is consistent with State law. The Department found that States were not counting holidays or leave as hours of employment. This resulted in States disqualifying AAWs when there was a paid, observed holiday because the AAW did not ''work'' those hours, or in instances where the worker may have used a sick day.

A State workforce agency requested that the Department reconcile an apparent conflict between proposed paragraphs (c)(4) and (e)(3). The State workforce agency provided an example scenario of a worker employed in two States, one of which does not allow for the consideration of multiple jobs in

determining full-time employment. The Department refers the State to the appropriate regional office for these type of hypothetical scenarios. In general, when there is disagreement between agent and liable States, it is vital that the regional office be involved in resolving any potential conflicts as there are likely multiple factors to consider.

No changes were made to the regulatory text and the proposed language was adopted in the final rule.

Section 618.510 Eligibility Period for Payments of Reemployment Trade Adjustment Assistance and Application Deadline

Section 618.510 of the NPRM set forth the eligibility period for payments of RTAA as provided by section 246(a)(4) of the Act.

Proposed paragraph (a) provided that, for an AAW who has not received TRA, the worker may receive RTAA benefits for a period not to exceed 104 weeks (2 years) beginning on the earlier of the date on which the worker exhausts all rights to UI based on the separation of the worker from the adversely affected employment that is the basis of the certification, or the date on which the worker first begins qualifying reemployment as described in § 618.505(e).

One commenter recommended eliminating the words ''the earlier of'' at the beginning of § 618.510(a), writing that the requirement complicates finding the effective date for RTAA claims. The commenter instead proposed that an eligibility period of 2 years from the date on which a worker begins qualifying employment be applicable for workers who have not received TRA. The eligibility period is defined in the statute at section 246(a)(4) and includes the ''earlier of'' language. The Department does not have the authority to change this via regulations. Accordingly, the Department is finalizing this section in the final rule as proposed.

Section 618.515 Continuing Eligibility and Timing of Payments

Section 618.515 of the proposed rule explained the requirements for an AAW's continued eligibility under RTAA and the timing of payments.

Proposed paragraph (a)(1) allowed workers to change jobs without loss of access to RTAA so long as the worker continues to meet other eligibility criteria. Proposed paragraph (a)(2) prohibited the payment of RTAA during a period of unemployment and provided that the AAW may resume receipt of RTAA payments upon obtaining qualifying reemployment for the remaining portion of the eligibility period. Section 246(a)(7) of the Act prohibits payment of TRA and RTAA for the same week.

Proposed paragraph (a)(3) established a requirement that if the computed annualized reemployment wages exceed $50,000, no additional RTAA payments could be made unless conditions were to change again, resulting in recomputed annualized reemployment wages of $50,000 or less. This provision was proposed to reduce the likelihood and number of overpayments that would otherwise occur.

One commenter wrote that the proposal would unfairly impact workers in fields with variable income streams, such as commission-based workers for whom a single high earning month could result in them losing a year of eligibility. The same commenter recommended aligning the proposal with how overtime is handled, where overtime does not count toward payments that could disqualify a worker. Another commenter expressed similar concerns, likewise stating that workers being paid by commission could be heavily impacted by the proposal and that § 618.515(a)(3) would impose administrative burdens on States. The Department concludes that the statute does not allow the Department to exclude overtime. The Department has made revisions to the regulatory text to address these concerns.

A State workforce agency stated that §§ 618.505(a)(2) and 618.515(a)(3) seemed to conflict as to whether overtime pay should be included in the calculation of wages and asked if the latter would allow workers to receive RTAA until their cumulative wages exceeded the annual limit. The Department agrees with the State that there is a conflict in the proposed rule. Upon further review, the Department has concluded that it has no legal basis to exclude overtime in calculating RTAA payments. Section 618.505(a)(2) has been modified in the final rule to remove the exclusion of overtime pay. Section 618.515(a)(3) has also been modified to delete the reference to a calendar year and add the requirement that States must calculate projected earnings for the year to determine continued eligibility.

With respect to the State's suggestion that there is some confusion regarding the language involving the $50,000 wage limit and calendar years and its query whether workers would be allowed to receive RTAA until their cumulative wages exceed $50,000, this final rule deletes all references to the word ''calendar'' from subpart E and defines ''year'' for RTAA purposes at § 618.505(b)(4). Further, under existing administrative guidance, at the point a worker's annualized reemployment wages are projected to be above $50,000, RTAA is stopped until such time as a recalculation shows an annualized reemployment wage of $50,000 or less. Workers remain otherwise eligible for RTAA until they actually earn, or are projected to earn, $50,000 in a year—as now defined in § 618.505(b)(4) for purposes of RTAA. Section 618.515(a)(3) and (d)(1) have been modified in the final rule to codify this requirement.

An AAW who is approved for RTAA and who continues to meet the eligibility criteria will be paid RTAA benefits until the end of the eligibility period or the payment of $10,000, whichever occurs first. The State will need to assess each RTAA recipient's continuing eligibility for RTAA. Whether RTAA entitlement is based upon part-time (at least 20 hours) or full-time employment, the State must verify the worker's employment and wage status on at least a monthly basis. If the worker is employed part-time (at least 20 hours per week) and receiving RTAA while in TAA approved training, the State must, on a monthly basis, verify participation in the training. The determination of annualized reemployment wages is made prospectively. An AAW meets the ''earns not more than $50,000 a year in wages from reemployment'' requirement in section 246 of the Act for a given month if the monthly determination of annualized reemployment wages that results in wages of less than $50,000 is accurate and complete at the time it is made.

RTAA payments stop in the event of any one of the following: (1) The AAW's annualized wages from reemployment exceed $50,000 in a year; (2) the AAW no longer meets the reemployment requirement through either full-time work or a combination of TAA approved training and at least 20 hours of work; (3) the AAW has received the maximum amount of RTAA; or (4) the AAW has reached the end of the RTAA eligibility period. The final rule adopts the same practice.

One commenter wrote that workers who separate from employment that would put them above the $50,000 limit should be eligible for RTAA if they find reemployment with wages below the limit. A worker can change jobs or obtain multiple jobs, but the earnings limit remains $50,000. If the worker's wages for the year are below $50,000, they will be otherwise eligible for RTAA.

One commenter wrote that monthly verification for RTAA could be administratively burdensome, as such a schedule would not line up with UI or wage record reporting cycles, and recommended shifting to a quarterly cycle. The Department clarifies that current practice is that RTAA must be paid no less than monthly. Payment of RTAA is not related to UI wage record reporting. Monthly verification also reduces the possibility of overpayments.

A State workforce agency said that the proposed rule appeared to drop a requirement set forth in administrative guidance for States to verify the training enrollment status of RTAA participants every 30 days. This was an oversight by the Department. There was no intention to eliminate this requirement. The Department has modified the regulatory text in the final rule at § 618.515(a)(4) to retain this provision. If an RTAA recipient is employed on less than a full-time basis, he or she also must be participating in approved training to remain eligible for RTAA. This requirement is intended to reduce improper payments and to ensure that participants are still participating in training since there are potential financial ramifications if a participant does not complete training.

The Department has revised § 618.515(d)(1) and (2) to remove the word ''calendar'' before year. The Department has also added language regarding projected earnings in paragraph (d)(1). These changes were made based on comments received on proposed §§ 618.505 and 618.515 seeking clarification of calendar year and more definitive guidance on the $50,000 earnings limit and to ensure that determinations of eligibility for RTAA are as accurate as possible.

Section 618.520 Benefits Available to Eligible Adversely Affected Workers

Section 618.520 of the proposed rule detailed the benefits available under RTAA as provided by section 246(a)(2) of the Act. Benefits available include wage subsidies, training, job search and relocation allowances, and, if available, the HCTC.

Proposed paragraphs (a)(2)(i) and (ii) provided the computations for annualized wages at separation and annualized wages from reemployment, respectively. A State would compute annualized wages at separation by multiplying the AAW's hourly rate during the last full week of the AAW's regular schedule in adversely affected employment by the number of hours the AAW worked during the last full week of such employment, multiplied by 52 (*i.e.,* the number of weeks in a year). Proposed paragraph (a)(2)(i) referred to the AAW's ''regular schedule'' and also excluded certain types of compensation from the meaning of ''wages,'' because certain types of work hours and compensation are too speculative and cannot be anticipated in computing annualized wages from reemployment under paragraph (a)(2)(ii) of this section.

Proposed paragraph (e) established the restriction that once an AAW has received a payment under RTAA, he or she is no longer eligible to receive TRA.

A State workforce agency requested clarification as to whether RTAA requires a full week of reemployment or whether States may prorate partial weeks. The comparison of wages for RTAA eligibility must be from the last actual full week of employment prior to separation and a full week of qualifying reemployment, whether actual or projected. This allows for a fair comparison of the wages.

One commenter asked whether commissions are included in the annualized wages calculation. For purposes of RTAA, the Department affirms that commissions are included in this calculation as well as overtime, bonuses, etc. In the discussion of § 618.515, above, the Department clarified that the statute does not allow for the exclusion of overtime. The section of this final rule has been modified in paragraphs (2)(i) and (ii) to remove the exclusion of overtime pay.

One commenter asked whether the Department would consider raising the maximum RTAA compensation in order to reflect better the economic climate. The income limits and benefit amounts under RTAA are established by section 246 of the Act. The Department does not have the authority to adjust these limits.

A State workforce agency recommended clarifying that States must instruct AAWs on their waiver of TRA benefits and the maximum value of RTAA benefits they may receive. The Department concurs this is a good practice, but has concluded it is unnecessary to regulate this activity. The statute does not explicitly require a notice of this type, as the AAW is not waiving TRA benefits. Rather, by receiving RTAA benefits, he or she is losing access to TRA benefits. The Department concludes that the decision on whether to provide this type of notice should be left to the individual States.

The Department is finalizing this section in the final rule by removing the exclusion of overtime pay under paragraphs (a)(2)(i) and (ii) and editing the use of a pronoun in paragraph (e). The rest of this section is adopted in this final rule as proposed.

Section 618.525 Determinations, Redeterminations, and Appeals

Section 618.525 explained the requirements related to determinations, redeterminations, and appeals under RTAA.

Proposed paragraph (a)(3) allowed an AAW to file a new application each time the AAW is reemployed and obtain RTAA if the AAW meets the criteria of proposed § 618.505(a) at the time of filing of the new application, even if the State previously denied a prior application.

Proposed paragraph (a)(4) provided that a State may approve a RTAA payment and pay it retroactively to an AAW who is covered by a TAA certification but who becomes reemployed before the Department issues the certification, provided the AAW otherwise meets eligibility requirements of § 618.505(a). Retroactive payments are explained in the discussion of proposed § 618.505.

One commenter pointed out an error in § 618.525(a)(3), which stated that the denial of eligibility based on a ''first'' reemployment was subject to appeal. The Department was referring to an initial application for eligibility, but concurs that this should be made clearer. Therefore, the Department has removed the word ''first'' from § 618.525(a)(3) and replaced it with ''nonqualifying'' to clarify that an AAW who is denied eligibility based on nonqualifying employment may file a new application for a subsequent reemployment. Any denial of RTAA benefits is subject to appeal subject to the provisions of § 618.828. The final rule adopts this section as proposed, with the update to the filing requirements in § 618.525(a)(3).

One commenter asked whether States could process retroactive RTAA payments and whether retroactive payments under proposed paragraph (a)(4) would be available only to full-time reemployed RTAA participants. In response, the Department affirms that RTAA payments can be made retroactively if an AAW was otherwise eligible, experienced a total separation from adversely affected employment, but was reemployed prior to certification. Retroactive payments may be made whether the worker was employed on a full- or part-time basis. Retroactive payments are also allowable in situations where an AAW was denied RTAA based on the projection of annual reemployment earnings over $50,000 but where the AAW did not actually end up earning over $50,000 in that year. However, the Department made nonsubstantive edits to correct two

cross-references in paragraph (a) of this section, including correcting the section headings of the sections cited; otherwise, the final rule adopts this section as proposed.

F. Subpart F—Training Services

Subpart F governs the training portion of the TAA Program. Training is an opportunity to gain skills and reenter the workforce after a total or partial separation or threat of separation from adversely affected employment. The TAA Program's goal is to help each trade-affected worker participating in the program obtain suitable employment when possible and nonsuitable employment otherwise. Training under the TAA Program should assist a trade-affected worker in obtaining the skills necessary for employment as quickly as possible and at a reasonable cost. With those principles in mind, training should allow workers to compete for the highest paying employment achievable given their preexisting skills, abilities, and education and the current and projected job market.

TAA Program approval of a training program entitles a trade-affected worker to the payment of the costs of that training and related costs, subject to a number of limitations described in this subpart. Participation in a TAA approved training program is an eligibility requirement for TRA, with certain exceptions, as explained in subpart G. Under section 236(a)(6) of the Act workers may still be entitled to TRA and other TAA Program benefits if other funding sources pay all or part of the costs of a TAA approved training program.

Subpart F applies the FTR, at 41 CFR chapters 300 through 304, to States providing TAA Program training participants with supplemental assistance in the form of subsistence and transportation benefits. This is not a new policy. The Department already enforces this requirement under several provisions in the previous regulations, including 20 CFR 617.27 and 617.28, which reference the use of the FTR. This measure ensures uniform access to subsistence and transportation benefits. TAA Program training participants travel under the same rules as employees of the Department. Some key changes covered in this subpart F include expansion of apprenticeship training, approvable part-time training, parameters for serving AAIWs, benchmark requirements to meet Completion TRA eligibility, and procedures for amending approved training programs.

Section 618.600 Scope

Proposed § 618.600 provided the scope of proposed subpart F. This section explained that the goal of training is to help trade-affected workers obtain the skills necessary to get back to work as quickly as possible at a reasonable training cost. The goal for reemployment is suitable employment, or reemployment that pays as much or more than the trade-affected worker's adversely affected employment, but obtaining suitable employment is not a requirement to approve training.

One commenter recommended changing the third sentence of § 618.600, which states that States should prefer training that replaces 100 percent or more of a trade-affected worker's wages in adversely affected employment by substituting the words ''is expected to replace'' for the word ''replaces.'' The Department has not changed the regulatory text in the final rule, as the suggested revision has the same meaning as the proposed regulatory text.

Section 618.605 General Procedures

Proposed § 618.605 was derived, in part, from 20 CFR 617.20. This section discussed general procedures for trade-affected workers to apply for training, as well as other procedures States must follow in making determinations on applications for training.

Proposed paragraph (a) required States to ensure that every trade-affected worker has an initial assessment and that a comprehensive and specialized assessment has been made available to them, as required in proposed subpart C. Proposed paragraph (b) addressed applications for training, as well as for transportation and subsistence payments. It reflected more accurately that applications must be made to the States in accordance with their policies and procedures. Proposed paragraph (c) specified that decisions on selection of, approval for, or referral of a trade-affected worker to training, including whether to provide TAA Program-funded transportation and subsistence payments, are determinations to which apply § 618.820 (determinations of eligibility; notices to individuals), § 618.824 (liable State and agent State responsibilities), and § 618.828 (appeals and hearings).

Proposed paragraph (d)(1) required States to explore, identify, and secure training opportunities to ensure trade-affected workers return to employment as soon as possible. States must use all necessary and reasonable means to find appropriate training where no appropriate training opportunities exist. Proposed paragraph (d)(2) provided that TAA Program funds may be used to create customized, group training opportunities in order to serve a particular dislocation event where available education and training programs are not sufficient. Proposed paragraph (d)(3) required States to coordinate with other public and private agencies, in cooperation with LWDBs, to ensure a wide range of training opportunities are available to trade-affected workers in high-demand occupations. Proposed paragraph (e) allowed training for trade-affected workers any time after their certification date without regard to whether such worker has applied for or exhausted UI.

One commenter expressed concern that the provision at § 618.605(a) did not distinguish between all trade-affected workers and those that choose to participate in the TAA Program. The same commenter recommended qualifying the term ''trade-affected workers'' with ''who are participating in the TAA Program'' to account for the fact that some trade-affected workers may not initiate or complete applications to participate. The definition of the term ''trade-affected worker'' in § 618.110 means both ''adversely affected workers'' and ''adversely affected incumbent workers.'' When a member of a worker group individually applies for TAA Program benefits and services, that is when the State determines if he or she is an AAW or AAIW (trade-affected worker).

The same commenter also recommended changing the third sentence of § 618.605(a) by adding the words ''that includes training'' after ''an IEP.'' The Department affirms that the rule provides that a trade-affected worker might not have an IEP, as discussed under subpart C. However, if an IEP does not contain a proposed training program, this would not apply. No changes have been made to the regulatory text at § 618.605(a) as a result of these comments.

The same commenter recommended changing some of the language at § 618.605(b) by adding the words ''under this subpart'' after ''subsistence payments.'' Proposed paragraph (b) states, in relevant part, that applications for training, including requests for TAA Program-funded transportation and subsistence payments, must be made to the State in accordance with procedures the States established. There are no other subsistence payments available other than under subpart F, so no such language is needed. Therefore, no change has been made to the regulatory text at § 618.605(b) in the final rule.

The Department made nonsubstantive edits in paragraph (c) of this section to correct two cross-references to the section heading of a different section; otherwise, the final rule adopts this section as proposed.

A workforce advocacy group stated that access to training in sought-after fields was vital for TAA recipients because these workers have generally lost high-paying jobs requiring specific skills that may not be replaced in the evolving economy. The group also stated that communities of workers with similar skills are sometimes subject to mass layoffs and that such workers may need to be retrained for entirely new occupations. As this can happen, especially in more rural areas, the Department encourages States to work with LWDBs in addressing these dislocations at the community or regional level and not just from the viewpoint of an individual worker. This is also a situation in which customized group trainings could be an efficient method of training trade-affected workers.

The same workforce advocacy group expressed support for the provision at § 618.605(d) that allows States to use TAA Program funds to support basic skills training and English language learning programs. The group requested that the Department change references to ''remedial education'' to ''basic skills instruction and remedial education,'' because the proposed language is outdated and omitting ''basic skills instruction'' would restrict the types of eligible practitioners in the field. The Department does not view the regulatory text language as limiting. Basic skills training and English language learning programs would be considered ''remedial education'' under this final rule.

The same workforce advocacy group also requested that the Department include a reference to Integrated Education and Training (IET) at § 618.605(d)(2) in order to align better with WIOA practices and increase participation in IET programs. The Department does not conclude that such a specific reference is needed in the regulatory text. This type of training is already allowed under the TAA Program. Where this rule uses the term ''contextualized occupational training,'' that term includes the concept of IET. No changes have been made to the regulatory text at § 618.605(d) in response to these comments.

One commenter supported allowing communities to use TAA Program funds to create new training programs and said this element of the proposed rule was a ''welcome change.''

One commenter recommended eliminating, in proposed § 618.605(e), what the commenter viewed as an entitlement to a ''lifetime training benefit'' and, instead, limiting participation in training under a specific certification to 5 or 10 years. The commenter said there should not be an entitlement to TAA approved training for workers who are displaced from jobs for reasons not related to trade. A different commenter asked if an expiration date for the lifetime training benefit would be included in the final rule. The Department considered imposing a deadline by which a trade-affected worker would have to begin training to retain access to the benefit; however, it has determined that there is no legal basis to do so. States must ensure that trade-affected workers who apply for training past the expiration of their certification meet the six criteria for the approval of training at § 618.610. No changes have been made to the regulatory text at § 618.605(e) in response to these comments. However, a minor edit was made to the use of a pronoun.

The Department will use this opportunity to remind States that, for purposes of determining suitable employment, States must look at the wages and skill level of the adversely affected employment. This means that States would need to look at the wages paid at the time of separation from adversely affected employment and not, in many cases, the AAW's most recent separation, which might not be from adversely affected employment.

The Department declines revising § 618.605, for the reasons discussed above, and implements this section in the final rule as proposed.

Section 618.610 Criteria for Approval of Training

Proposed § 618.610, which corresponded to 20 CFR 617.22(a)(1) through (6), implemented all six statutory criteria for training approval from section 236(a)(1)(A) through (F). Under proposed § 618.610, training must be approved for a trade-affected worker if the State determines that all six criteria are met. The statutory criteria are as follows:

- There is not suitable employment available (section 236(a)(1)(A), corresponding to proposed § 618.610(a), Criterion 1).
- The worker would benefit from appropriate training (section 236(a)(1)(B), corresponding to proposed § 618.610(b), Criterion 2).
- There is a reasonable expectation of employment following completion of such training (section 236(a)(1)(C), corresponding to proposed § 618.610(c), Criterion 3).
- Training approved is reasonably available to the worker (section 236(a)(1)(D), corresponding to proposed § 618.610(d), Criterion 4).
- The worker is qualified to undertake and complete such training (section 236(a)(1)(E), corresponding to proposed § 618.610(e), Criterion 5).
- Such training is suitable for the worker and available at a reasonable cost (section 236(a)(1)(F), corresponding to proposed § 618.610(f), Criterion 6).

The Department is finalizing this section as proposed, except for the changes noted below.

Under proposed § 618.610, States must consult the trade-affected worker's assessment results and IEP, if available, before approving an application for training. One commenter asserted that the introductory paragraph of § 618.610 requiring States to consult a worker's IEP before approving training applications was in conflict with the language at § 618.350(a)(2) requiring that an IEP must be documented before a trade-affected worker receives training under subpart F. An IEP should be established prior to the approval of a training program, but it is expected to be a dynamic document, subject to additions and revisions, so States must continue to consult the document. No changes have been made to the proposed introductory paragraph of § 618.610 in the final rule as a result of this comment.

Another commenter asked how the Department intended to define ''foreseeable'' as it appears in § 618.610(a)(1), which proposed a finding of no reasonable prospect of suitable employment becoming available for the worker in the foreseeable future as a part of Criterion 1. The Department considered further clarification of the term ''foreseeable'' in this context but has determined that the use of this term is unchanged from previous regulations, as is this criterion for training approval. There is no intent to change how States have historically interpreted this term; therefore, any new clarification may serve only to limit States' flexibility. States should have a procedure or policy in place for consistently determining the availability of suitable employment for workers applying for training. The Department encourages States to contact their regional office to review their existing policies if further questions remain. No changes have been made to the proposed regulatory text at § 618.610(a)(1) in the final rule as a result of this comment.

A State workforce agency supported the ''career pathway'' option under § 618.610(b)(1) and maintained that many workers changing careers will need to take lower paying jobs initially in order to develop their skills in a new field. In contrast, a different State workforce agency recommended that the Department reconsider the use of ''career pathway'' at § 618.610(b)(1) since this is a technical term defined in the WIOA regulations. The State workforce agency recommended deleting the word ''career'' from the sentence containing the term ''career pathway.'' The Department concurs with the recommendation and has made that change to § 618.610(b)(1) in the final rule to distinguish this term from the WIOA term. The Department has also made a minor edit to the use of a pronoun.

One commenter asked why the Department limited the consideration of labor market conditions to a worker's intended commuting area (introductory paragraph of § 618.610(c)) since some workers might be inclined to travel longer distances for the right job. The Department clarifies that the intent of this language is to limit the geographical area in which a trade-affected worker must seek suitable employment before training can be approved. It does not limit the suitable employment that a worker may accept. One commenter expressed concern about the provision at § 618.610(c)(4) requiring States to assess whether the number of workers enrolled in a given training will cover demand in the local labor market, because States' implementation of this provision would be difficult and burdensome. The same commenter asked whether States would have to contact all providers who offer the type of training under consideration and what geographic parameters should be used to determine which providers must be contacted. The Department clarifies that § 618.610(c)(4) does not apply to most proposed training programs and it is specific to proposed training programs for limited demand occupations. The Department encourages the State, during the training approval process, to use any available means to evaluate the likelihood of the worker to successfully compete for and obtain a position after completing proposed training in the limited demand occupation. No changes to proposed § 618.610(c) were made in the final rule as a result of these comments. The Department did, however, make two edits for use of pronouns in paragraphs (c)(4) and (5) and subject-verb agreement in paragraph (c)(4).

Self-Employment as a Viable Employment Goal

Proposed § 618.610(c)(5) recognized that self-employment may be a viable employment goal. Under proposed § 618.610(c)(5), States must review the labor market conditions to determine that the skills to be obtained in the training will lead to self-employment that will provide trade-affected workers with wages or earnings at or near their wages in adversely affected employment.

Two commenters supported the provision to approve training programs that would lead to self-employment. Another commenter supported the Department's proposal to consider self-employment as a viable employment goal and asked whether Criterion 6 for training approval (training is suitable for the worker and available at a reasonable cost) would be met if self-employment were to provide workers with earnings equivalent to or near their previous earnings. States should compare the trade-affected worker's ability to undertake the training program against the worker's self-employment goal and determine if the training program is suitable based on that comparison. The Department affirms that the commenter's example would meet the ''suitable for the worker'' part of Criterion 6 (§ 618.610(f)(1)), if the training program being considered meets the conditions for a trade-affected worker to be qualified to undertake and complete a training (Criterion 5, § 618.610(e)(1) and (2)); and if the self-employment will satisfy § 618.610(c) (Criterion 3, reasonable expectation of employment) and provide the trade-affected worker with work of a substantially equal or higher skill level than the worker's past adversely affected employment, and self-employment wages are projected to result in earnings equivalent to 80 percent of the worker's adversely affected wages.

Multiple commenters asked about methods for tracking and reporting self-employment earnings. The final rule does not prescribe a specific method for the tracking of wages for self-employed trade-affected workers. Consistent with administrative guidance, the TAA Program allows for the collection and reporting of supplemental wage information consistent with WIOA. The State should contact its regional office if additional technical assistance is needed on this topic.

One commenter said that the language discussing self-employment is ''vague'' and asked whether self-employment is an approvable employment goal. The same commenter said the language about self-employment as a viable employment goal should clarify that ''entrepreneurial training'' is not an approvable type of training even if entrepreneurship is a viable employment goal. While a trade-affected worker's employment goal may be self-employment, the Department does not consider a training program consisting of only entrepreneurial training as an approvable training program under the TAA Program. Occupational training is a required component. The Department maintains that allowing a training program consisting of only entrepreneurial training conflicts with the goal of TAA approved training in § 618.600, which is that training provided must, at a reasonable cost and as quickly as possible, assist a trade-affected worker in obtaining the necessary skills to have a reasonable expectation of employment.

One commenter asked how the Department would overcome the suitability of training requirements with respect to self-employment since BLS states that self-employment initially presents some challenges for workers, including reduced income stability and difficulty securing business loans. The Department encourages States to refer trade-affected workers to self-employment assistance programs to assist workers in estimating or calculating future wages or earnings and other aspects of self-employment that are outside the purview of the TAA Program.

Criterion 4 (Training Reasonably Available) and Criterion 5 (Trade-Affected Worker Qualified To Undertake and Complete Training)

Proposed paragraph (d) implemented Criterion 4 and corresponded to 20 CFR 617.22(a)(4), but was simpler, better organized, and free of outdated references. References to approval of training outside the trade-affected worker's commuting area for cost reasons were moved to proposed paragraph (f), Criterion 6.

One commenter viewed the language at § 618.610(d) requiring States to first consider training opportunities available within the worker's commuting area as overly limiting because workers may be willing to travel longer distances to attend a training program of perceived higher quality. The Department has determined this is appropriately addressed at § 618.610(f)(2)(ii), which allows a State to approve a higher cost training if the training is reasonably expected to result in a higher likelihood of employment, employment retention, or greater

earnings, or to return the trade-affected worker to employment in a significantly shorter duration. The Department has made no change to the regulatory text in the final rule as a result of these comments.

Proposed § 618.610(e)(3) (Criterion 5) consisted of five parts, paragraphs (i) through (v), which explained the State must consider (1) the worker's remaining weeks of UI and TRA payments (for AAWs) in relation to the duration of the proposed training program; (2) other sources of income support available to the worker, including severance earnings of other family members, and other family resources; (3) other fixed financial obligations and expenses of the worker and family; (4) the availability of Federal student financial assistance or any State-funded student financial assistance or any private funding designated for student financial assistance or any private funding designated for student financial assistance, including, but not limited to, nongovernmental scholarships, awards, or grants; and (5) whether or not the worker is employed while attending training. The criteria are used only after the period of TRA eligibility because the purpose of TRA is to provide sufficient financial support to complete training. Finally, documentation is addressed in § 618.852 (Recordkeeping and disclosure of information requirements).

A nonprofit public policy organization said States should consider factors beyond just financial aid and Federal work-study programs when determining whether workers have alternative means to support themselves financially if a TAA approved training program lasts longer than a worker's TRA benefits. The organization suggested States should consider whether TAA Program recipients have access to supports like Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families benefits, or if recipients are equipped to attain part-time employment. The organization maintained that considering a wider range of factors would allow States to approve 4-year college programs for trade-affected workers. The Department agrees that this approach may be of interest to States and refers the commenter to § 618.610(e)(3)(ii), which discusses the need for States to consider other income.

One commenter said that if the intent of the provision at § 618.610(e)(3) is to prevent workers from failing to complete trainings because of a lack of financial support, then the relevant criterion should be whether a worker has sufficient financial resources to support completion of a training program. The same commenter said it would be ''odd'' for this criterion to come into play only if a worker's remaining weeks of UI or TRA do not equal or exceed the length of a training program. The Department affirms that the relevant inquiry is whether someone has sufficient financial resources to complete training, but the statutory requirement is limited to the availability of TRA. States are encouraged to review trade-affected workers' financial situations as part of the case management services provided under subpart C.

A different commenter requested clarification on the types of documents needed to verify sufficient financial resources for workers whose UI or TRA runs out prior to the completion of a training program. Neither the proposed rule, nor the final rule, provides explicit documentation requirements for verification of financial resources. States are, however, required to retain or describe the documents they used to render a determination in the trade-affected worker's case file, in compliance with the final rule at § 618.610(e)(4).

One commenter asked whether assessments or IEPs completed by partner programs would satisfy requirements in § 618.610(e)(3). The Department addressed this subject under the responses to subpart C. Partner program assessments and IEPs may be used if they meet the requirements established in the final rule. Assessments and IEPs from partner programs that do not meet the requirements of the final rule may be supplemented by additional information in order to meet those missing requirements. Duplication of effort should be avoided wherever possible. No changes have been made to the regulatory text at § 618.610(e) in response to these comments.

Comments and Requested Clarifications on States' Coverage of Training Costs

Proposed § 618.610(f)(2), one component of Criterion 6 for training approval, requires that suitable training be available at a reasonable cost. Reasonable cost is a critical determinant in approving training programs.

One commenter requested clarification on ''open-ended'' and ''potentially burdensome'' guidance about training costs and asked the Department to restore the definition of ''suitable work'' to the version established in the previous regulation to ensure timely approval of training programs. The Department is unclear as to the commenter's request for clarification on the provision of ''suitable work,'' which is defined, and used, in subpart G. Subpart F uses the term ''suitable employment.'' ''Suitable work'' is a term used in UI when claimants are conducting job search activities to remain eligible for receipt of benefits. Under previous regulations, ''suitable work'' was used as the standard for approval of job search allowances and relocation allowances. For further assistance on coverage of training costs, States are encouraged to contact their regional office.

One commenter requested clarification for States on whether they are permitted to pay travel allowances when travel would be required for workers to take certification tests. Another commenter questioned the propriety of using TAA Program funds to cover licensing costs or fees associated with certification tests, when licenses or certifications are required elements of an approved training program. When tests or exams, such as mid-terms, finals, or licensure exams, are part of an approved training program, transportation costs are allowable costs. These tests, especially those that might occur after the classroom training portion of the training has completed, should be documented as part of the training program. Otherwise, the TAA Program may cover the costs of any fees associated with the test as an employment and case management expense, but not transportation. Transportation costs outside of an approved training program would be considered a supportive service, which is not payable using TAA Program funds.

Multiple commenters requested clarification of training-related costs, specifically purchasing laptops, tablets, software, etc. for workers in TAA approved trainings. The Department clarifies that the proposed provision of training-related costs is unchanged from current practice and policy. If materials or supplies are required of all students enrolled in the training, States are required to provide those items for the trade-affected worker to use. Proposed § 618.610(f) does not prohibit a State from reimbursing a worker. As provided in the regulatory text at paragraph (f)(2), training costs may include tuition and related expenses, including books, tools, computers and other electronic devices, internet access, uniforms and other training-related clothing such as goggles and work boots, laboratory fees, and other academic fees required as part of the approved training program.

One commenter stated that the reference in the preamble to the proposed rule that States must exhaust alternatives before purchasing training equipment was ''vague'' and requested that the Department provide examples or further guidance. A different commenter suggested that, to improve clarity, the Department should explicitly require in the training approval criteria section itself that States must ''exhaust alternatives'' before purchasing equipment or other materials for workers. Section 618.610(f)(2)(B) of the final rule recommends that States explore other options before purchasing equipment or related materials needed for training. Alternatives could include, for example, an equipment lease agreement. The Department advises States to follow their regular procurement process and comply with 2 CFR part 200 and 2 CFR part 2900, as appropriate, paying close attention to the distinction between equipment and supplies. The regulatory text at § 618.610(f)(2) has been adopted in the final rule as proposed.

Section 618.615 Limitations on Training Approval

Proposed § 618.615 discussed the various limitations on a State's approval of a training program. The proposed rule relocated some of the limitations on approval of training provisions from 20 CFR 617.25 to sections other than proposed § 618.615, where they more logically fit. The Department is finalizing this section as proposed, except for the changes described below.

Paragraphs (a) and (b)

Proposed paragraph (a)(1) retained the single training program rule of 20 CFR 617.22(f)(2). Changes to an ongoing training program are considered to be part of one training program.

Proposed paragraph (b) corresponded to 20 CFR 617.22(f)(4) with respect to full-time training but differed significantly by permitting States to approve part-time training as well. Proposed paragraph (b)(1) retained the provision in 20 CFR 617.22(f)(4) that training is full-time if it is in accordance with the established hours and days (or credit hours) of the training provider. Proposed paragraph (b)(2) discussed requirements related to part-time training under the TAA Program.

One commenter suggested revising part of § 618.615(a)(1) by adding the words ''unless one of the conditions in [§]618.665 allows approval of a training program that is different from the originally approved training program'' after ''under a single certification.'' The commenter did not provide a justification for the recommended addition of language. The same commenter also said that several of the words in § 618.615(b)(2) were missing hyphens. Proposed § 618.615 provided the criteria that must be met at the initial approval of a training program. Proposed § 618.665 provided the criteria to be considered when amending a training program. Not all of the criteria from § 618.615 are included in § 618.665 because they are not all appropriate when considering an amendment. An amended training program is not a second training program; it is an amendment to the existing (approved) training program. With regard to the hyphens, the Department has corrected the regulatory text in the final rule to include the noted hyphens without substantive change. The Department has also made an edit to the use of a pronoun in paragraph (b).

Two commenters raised concerns with the regulatory language related to participants in training who find employment. One commenter asked whether this section was in conflict with proposed § 618.645 (voluntary withdrawal from a training program). The commenter asked whether this was a change from current interpretations. Another commenter raised concern with the language in § 618.615(b)(1) about an AAW in training who obtains employment that is not suitable employment being able to continue in training while employed. The Department affirms that AAWs are allowed to continue in approved training, regardless of their employment status, after their initial approval of a training program, as long as they continue to successfully follow their approved training program and the requirements to amend their training program. Determining whether suitable employment exists is the requirement for the approval of training and not a factor in determining whether approved training can continue. Regarding the identification of an apparent conflict between the language in proposed §§ 618.615 and 618.645 with regard to suitable versus nonsuitable employment, the Department has revised the regulatory text for the final rule at paragraph (b)(1) of this section to remove the conflicting language and to indicate that the term ''full-time training'' has already been defined in § 618.110 and that it applies here.

A commenter stated that when AAWs need to drop classes and assume part-time status for a semester, their State's program will discontinue TRA benefits for the part-time period and reinstate TRA benefits once the worker returns to full-time status the following semester. States must temporarily discontinue TRA payments when an AAW reduces full-time training to part-time training. Part-time training is approvable, but, before approving, States must consider the worker's approved training program as a whole and the worker's reasons for utilizing only part-time training.

A different commenter suggested the Department provide a clearer definition of situations when a trade-affected worker ''cannot undertake'' full-time training because some workers claim they have been out of school for a long period of time and they cannot undertake full-time training. Success stories included on the TAA Program's website have repeatedly highlighted that trade-affected workers who return to training usually excel as students. Trade-affected workers tend to apply the same work ethic to their studies as they had during their tenure in adversely affected employment. The Department is cautious about providing a definitive answer to such general scenarios without additional background information. States should seek assistance from their appropriate regional office on individual cases as there are often very specific circumstances that must be considered before a determination can be made.

When trade-affected workers indicate they need to drop a class, which will change their status from full-time to part-time, it is appropriate to inquire about why they need to drop the class. If it is due to a barrier to training, a referral to a partner program may be needed. If a worker drops from full-time training to part-time training to meet a financial need, such as to help them increase immediate earnings, they may also gain work experience that helps them secure higher paying employment post-training. The intent of the language in the preamble to the proposed rule was to ensure that, whenever possible, workers are enrolled in training that will ensure the fastest possible return to suitable employment. No change has been made to the regulatory text in response to these comments.

Another commenter expressed support for workers in training being allowed to continue their training full-time even if they find employment. The commenter was under the impression that under the previous rules and administrative guidance, workers may continue only in part-time training. The Department affirms that this is not a change from current policy as trade-affected workers may participate in either full-time or part-time training, or a combination of the two.

One commenter argued that since the criteria for approved trainings under

WIOA are generally stricter than those for the TAA Program, workers approved for WIOA trainings should automatically be approved for TAA approved trainings. While the Department supports State and local area efforts to make services as seamless as possible for trade-affected workers, the six criteria for approval of training, promulgated at § 618.610, are based on statutory requirements of the Act and must be met in order for training to be approved under the TAA Program. The Department explains that training eligibility under WIOA for dislocated workers found at WIOA section 134(c)(3) includes some of the six criteria for approval for a worker to meet training eligibility. The Department encourages States or local areas to incorporate elements of the six criteria under the TAA Program as part of determining the appropriateness of training for workers. By aligning the six TAA Program criteria process with the WIOA training eligibility, States and local areas can ensure a seamless transition from WIOA-funded training to TAA-funded training for the worker. In that scenario, there would be no extra step required. Without such a policy in place, the State must be able to document that the criteria at § 618.610 have been met. This does not mean that the WIOA-approved training must stop while TAA Program eligibility and training approval are addressed, but rather that the WIOA training cannot be considered TAA approved training until the State determines that the criteria in § 618.610 have been met.

Paragraph (d)

Proposed paragraph (d)(3)(iii) provided a pathway for approving a training program that exceeds the period during which TRA is available, as allowed under section 236(a)(9) of the Act, but is still within the maximum duration of training. One commenter supported the provision at § 618.615(d)(3)(iii) because it would help workers who were not notified of their eligibility for a training program in time to start training soon after losing their previous job, and because it would expand the types of trainings available to eligible workers.

One commenter described its organization's experiences with workers who may attest to having enough financial resources to support themselves during a training period based on ''an unrealistic expectation'' of their financial needs and expected future income. The commenter stated that career counseling and case management services could help workers create, and stick to, more realistic financial plans. The Department agrees that financial planning is a key component of successful case management.

One commenter supported the exception for workers who have performed a period of duty in the Uniformed Services discussed at § 618.615(d)(4)(i) through (iii).

Accordingly, the final rule adopts the limitations on training approval as proposed in § 618.615, with grammar and nonsubstantive edits in § 618.615(b)(2) and (d)(2), and a substantive edit to § 618.615(b)(1) to remove the language regarding not suitable employment. The Department has also made four edits to the use of pronouns in paragraph (d).

Section 618.620 Selection of Training Program

Proposed § 618.620, authorized by section 236(a)(5) of the Act, set forth requirements related to a State's obligation to document the standards and procedures for the selection of training programs and the methods of training permissible.

Paragraph (a)

Proposed paragraph (a) provided for the standards required for the selection of training programs. This paragraph represented a change from the language at 20 CFR 617.23, which outlined the selection criteria for training programs and specified evaluation of a training provider's success by placement rates.

Some commenters sought clarification on the language in § 618.620 about establishing and documenting the standards and procedures used to select providers and training under the TAA Program. The Department emphasizes that the regulatory requirement is for documentation, which may be met by listing the State's requirements, whether new or preexisting. For example, many States require trade-affected workers to provide two or three different training options or training providers for the training program for which they are seeking approval and States may simply list this requirement, or similar requirements, as the standard. The Department reiterates that the statute prohibits limiting training under the TAA Program to only those options on the ETP list under WIOA. All training approved under the TAA Program must meet the criteria for training approval at § 618.610.

One commenter questioned how States should treat new training providers or programs that have not previously been utilized. The WIOA implementing regulations, at § 680.450, established the requirements for training providers not previously approved under WIA to submit applications to be considered eligible providers under WIOA. This process may be helpful to States seeking to establish standards for the approval of training providers and programs. The Department advises States that are seeking to establish standards to explore the process used for initial eligibility under WIOA and to contact their appropriate regional office for assistance on this issue.

Proposed paragraph (a)(2) allowed a State to choose a training provider from the ETP list, established under WIOA, without establishing additional standards or procedures. Section 236(a)(5) of the Act prohibits States from limiting training available under the TAA Program to only those training providers on the ETP list.

Several commenters supported the provision allowing States to choose an ETP recognized under WIOA section 122 without needing to create additional standards or procedures applicable to TAA. One commenter requested clarification about the meaning of the phrase ''without establishing additional standards or procedures'' and whether this applied to the criteria of training programs being selected or States' processes for procuring training providers. The Department affirms that when States enroll a trade-affected worker in a training program that is not on the ETP, they must follow a procedure that establishes standards for the approval of training providers and courses, as required by § 618.620(a)(2)(i).

Two commenters stated they already had a ''process'' for the ETP list. One of these commenters asserted that the provision at § 618.620 would be challenging for non-ETPs and would limit choices for trade-affected workers. Another commenter said that if a training provider or program is not on the ETP list, WIOA's dislocated worker program could still offer supportive services, but not an Individual Training Account (ITA). The Department affirms that if a training provider (or course) is already on the ETP list, no additional standards or selection process is required under the TAA Program. Section 618.620 allows the inclusion of providers that are not on the ETP list. States are required, in those cases, to establish standards to ensure that trade-affected workers are provided access to quality training programs. The Department clarifies that, with regard to ITAs, States are expected to utilize TAA Program funds to pay for the costs of training, while using WIOA funds to provide appropriate supportive services

that cannot be funded by the TAA Program.

Paragraph (b)

The Department made an edit to the use of a pronoun in paragraph (b)(1).

Paragraph (c)

Proposed paragraph (c) provided a nonexhaustive list of other specific types of approvable training programs, which generally followed 20 CFR 617.24(b) through (f).

One commenter requested clarification about whether, for workers who need ''other training'' under paragraph (c), that training is considered a ''training opportunity,'' or if it can be coupled with later ''primary/core training.'' The Department reiterates that a training program under the TAA Program can include any or all of the types of training described in subpart F. A worker could be enrolled in, for example, remedial training, occupational training, and an OJT, as part of a single approved training program.

Paragraph (d)

Proposed paragraph (d) provided that TAA Program funds can be used to provide training to trade-affected workers seeking to obtain an advanced degree or to complete coursework toward obtaining an unfinished advanced degree.

One commenter supported the option to receive remedial education before or during a requested training program, as well as the inclusion of different remedial education programs, such as Adult Basic Education and English Language Arts courses and high school equivalency preparation classes.

A State workforce agency, which described its position on the advanced-degrees provision found in proposed § 618.620 as ''neutral,'' questioned whether an advanced degree would impact WIOA performance measures given the proposed mandatory co-enrollment for WIOA and the TAA Program. The Department is aware of the exclusion of advanced degrees from the measurable skills gain measure. However, this exclusion is not a factor in the training approval criteria in § 618.610 and cannot be used by a State to deny training for an advanced degree under the TAA Program. The Department explains that services strategies and historical service data are now used in setting performance goals under WIOA. Further, although the enrollment of trade-affected workers in advanced degrees may impact the measurable skills gain indicator, those same workers are likely to have higher employment rates and higher median earnings.

The Department made a nonsubstantive edit to modify a citation to correctly reference § 618.615(d)(3) in paragraph (d) of this section; otherwise, the final rule adopts this section as proposed.

Section 618.625 Payment Restrictions for Training Programs

Proposed § 618.625 listed a series of restrictions on payments for training programs. The Department received several comments related to proposed paragraph (c) of this section. Proposed paragraph (c)(2) allowed States to share training costs with authorities administering non-Federal, State, and private funding sources provided that there are insufficient TAA Program funds to cover the total cost of training.

One commenter supported the new provision at § 618.625(c)(2) allowing States to enter into cost-sharing arrangements with non-Federal entities as an improvement that added flexibility.

Another commenter stated that, in the proposed regulation, § 618.625(c)(2) cites to paragraph (d)(2)(ii) ''of this section'' despite § 618.625 not having a paragraph (d)(2)(ii). The commenter was concerned that there was no § 618.625(d)(2)(ii) to refer to. Section 618.625(d)(2)(ii) exists and cross-references § 618.940 (a provision related to insufficient funds), along with other regulatory provisions that would apply if the Department determines that there are insufficient funds available for TaOA to meet demand.

Proposed paragraph (c)(5) followed 20 CFR 617.25(b)(4)(ii)(C) but clarified it. As required by section 236(a)(4)(C) of the Act, in determining the amount of training costs payable from TAA Program funds, the State must not consider payments to the trade-affected worker under other Federal laws that do not directly cover the costs of training. Proposed paragraph (c)(5) also addressed the transition of Federal student financial assistance recipients from WIOA and other programs to the TAA Program.

A commenter suggested the Department should insert citations to applicable rules for Federal student financial assistance at § 618.625(c)(5)(iv). The Department, in drafting the final rule, sought to limit references to other regulations outside of this part 618. The Department, therefore, has elected not to add the requested reference, as this helps ensure that these regulations are not made obsolete by changes to other rules.

The Department adopts the section in the final rule as proposed.

Section 618.630 Training of Reemployed Trade-Affected Workers

Proposed § 618.630, which followed 20 CFR 617.22(g), derived from section 236(d) of the Act. The Department received no direct comments on this section. Nevertheless, comments received in response to §§ 618.615 and 618.645 have resulted in a change to the section heading of this section and to the regulatory text as described below.

In response to comments received in §§ 618.615 and 618.645, the Department is removing both uses of the phrase ''that is not suitable employment'' from § 618.630(a) and removing the phrase ''not in suitable employment'' from the section heading since this provision is not contingent on the employment obtained not being suitable.

Section 618.635 Work-Based Training

Paragraph (a)

Proposed § 618.635 modified 20 CFR 617.25(a) to establish detailed requirements for OJT, customized training, and apprenticeship. The Department is finalizing this section as proposed, except for the changes described below.

Proposed paragraph (a)(3) implemented section 236(c)(3)(A) of the Act and required that the OJT contract specify the duration of the OJT, and be limited in duration as appropriate. Although statutorily limited to a maximum of 104 weeks under section 236(c)(3)(B) of the Act, the length of an OJT contract must also be limited to the specific vocational preparation required for the occupation, as listed on O*NET (*www.onetonline.org*).

One commenter asked why proposed § 618.635(a)(3) states that the worker's academic and occupational skills must be considered, ''as documented in the worker's IEP, if available,'' while the language at § 618.350 requires that an IEP be documented before workers may receive training under the TAA Program. The Department reiterates that not all trade-affected workers may have an IEP. If, instead, the State has sufficient information that would otherwise be included in an IEP, training may still be approved, even if the worker refuses to participate in the IEP process. However, the trade-affected worker must provide sufficient information, either through a partial IEP or outside of the IEP process, for the State to make a determination on the six required training approval criteria. Failure to do so will result in denial of the training program. A trade-affected

worker so denied can appeal the training denial. The final rule adopts the regulatory text in § 618.635(a)(3) as proposed.

Proposed paragraph (a)(4) implemented the statutory language in section 236(c)(4) of the Act, which excludes certain employers from receiving OJT contracts. One commenter asked for further clarification on the term ''long-term'' found in § 618.635(a)(4)(i). The Department explains that this is a statutory requirement at section 236(c)(4)(A), and applies to employers who exhibit a pattern of failing to provide AAWs in OJTs with continued, long-term employment as regular employees. States should apply a reasonableness standard. For technical assistance with a specific case, the Department recommends contacting the appropriate regional office. The final rule adopts the regulatory text in § 618.635(a)(4) as proposed.

Proposed paragraph (a)(5) set out the reimbursement provisions for the OJT contract at a rate of up to 50 percent of the wage rate for the OJT participant, limited to the duration of the contract, as provided in section 236(c)(5)(H) of the Act. One commenter asked whether the ''wage rate'' described at § 618.635(a)(5) includes all compensation, consistent with the definition of ''wages'' at § 618.110. The commenter said it was important to clarify this point because OJT reimbursement would be greater if all compensation, including benefits, were taken into consideration. The Department explains that, for purposes of reimbursing employers for the cost of training under OJT and apprenticeships, the term ''wage rate'' limits reimbursement to the hourly rate of pay for the worker and does not include any other compensation that may be included in the worker's wages. The final rule adopts the regulatory text in § 618.635(a)(5) as proposed.

Paragraph (b)

Proposed paragraph (b)(4) explained the limitation from section 236(a)(10)(B) of the Act that AAIWs are eligible for customized training only if the position is for a position other than their adversely affected position. One commenter suggested clarifying § 618.635(b)(4), which provided that ''[f]or AAIWs, approval is limited to customized training for other than their current position in adversely affected employment,'' by adding the words ''a position'' so that the regulatory provision would read, in part, ''approval is limited to customized training for a position other than their current position in adversely affected employment.'' The Department agrees that this phrase was inadvertently omitted and has inserted it into the final rule at § 618.635(b)(4).

Paragraph (c)

Specific Provision for Expanding the Term ''Apprenticeship''

Proposed paragraph (c) provided that both registered apprenticeships under the National Apprenticeship Act (NAA), as well as other training programs that include a paid work-based learning component and required educational or instructional component that results in the issuance of an industry-recognized credential, are approvable TAA Program training activities.

A few commenters generally supported the proposed rule's expansion of training options for workers, particularly the increased flexibility for apprenticeships.

A nonprofit public policy organization stated that placing more trade-affected workers in apprenticeships is a laudable goal and said that very few TAA Program recipients have participated in apprenticeships historically, including just 0.1 percent in 2018. The organization stated that the amount of financial support for apprenticeship expansion in the proposed rule went far beyond financial incentives offered through other State and Federal programs, and it suggested limiting support for apprenticeship expansion to smaller amounts, such as 25 percent of wages, in order to align better with other policies and to allocate more support to workers who are traditionally excluded from apprenticeships, such as women or older workers. The work-based learning portion of an apprenticeship is similar to that of OJT; thus, the Department has established the same reimbursement rate for that portion of an apprenticeship as exists for OJT. In addition, training programs under the TAA Program have always been allowed to contain both work-based and traditional classroom instruction. The apprenticeships newly covered by the expanded definition have long been approvable as OJT; this is not a change from current practice, but rather a shift in the benefits available.

One commenter asked whether the language at proposed § 618.635(c) meant that States could require TAA Program funding be used for registered apprenticeships only. The Department reiterates that, consistent with section 236(a) of the Act and § 618.610, States must approve a training if the State determines that there is no suitable employment for the trade-affected worker, the worker would benefit from appropriate training, there is a reasonable expectation of employment following completion of such training, the training is reasonably available to the worker, the worker is qualified to undertake and complete the training, and the training is suitable for the worker and available at a reasonable cost. Among other requirements, this determination necessitates careful review of a trade-affected worker's skills and experience, the knowledge the training would provide, and labor market conditions. Therefore, States may not, as a hard-and-fast rule, limit apprenticeships under the TAA Program to registered apprenticeships, for that would exclude other apprenticeship programs before determining whether they meet the criteria that should result in approval. However, if the State determines that a nonregistered apprenticeship under consideration does not meet the criteria to approve the training, the State must deny the training. For example, in evaluating a nonregistered apprenticeship under these criteria, a State may gather information that leads it to conclude the nonregistered apprenticeship would not increase the trade-affected worker's likelihood of obtaining employment. If so, then the State may not approve that training. If the State denies training on these grounds, the State must consider other trainings for the trade-affected worker that would meet the criteria for approving training.

One commenter asked how the Department intended to define ''industry-recognized credential'' in proposed § 618.635(c). The term ''industry-recognized credential'' is not defined in the Act. However, the term ''recognized postsecondary credential'' is defined in section 247(19) of the Act, and that term also is used in section 239(j)(2)(A)(i)(IV) of the Act to identify a factor in one of the primary indicators of performance that the State must report to the Secretary. Section 3(52) of WIOA contains the same term and definition for similar reporting purposes. See 29 U.S.C. 3102. Industry-recognized credentials are a subset of recognized postsecondary credentials. The Department has determined that no further definition is needed in this final rule. The Department adopts this section as proposed.

Comments on Length of Training and Apprenticeships

Proposed § 618.635(c)(1) limited the duration of the paid work-based learning component of an apprenticeship to a maximum of 130

weeks, in line with the general limitation on training duration in proposed § 618.615(d)(3). The length of the educational or instructional training component, however, was limited only by the scheduled completion date of the apprenticeship.

Two commenters requested clarification on whether TAA Program funds could cover educational or instructional aspects of apprenticeship programs for up to 5 years under the proposed rule. One of the commenters also requested that the Department provide a more detailed description of any intended limitations on coverage of educational or instructional aspects of apprenticeship programs under the proposed rule. The other commenter said that educational or instructional aspects of apprenticeship programs take many forms, and it suggested the Department should provide clarification on a series of issues related to the 130-week limitation, including whether apprenticeships featuring a work-based learning model would be approved and whether apprenticeships longer than 130 weeks that do not offer industry-recognized credentials would be approved. Another commenter requested clarification on the proposed rule's revisions of the TAA Program's length of training requirements applicable to apprenticeships because, in their reading of the proposed rule, apprenticeship programs are covered for up to 5 years or for up to 130 weeks at 50-percent employer reimbursement. The same commenter asked what States should do after reimbursing apprenticeship costs for up to 130 weeks, specifically whether they should cease funding at that point or continue until the 5-year limit is reached. Another commenter asked whether § 618.635(c)(1) was intended to refer to the ''full duration'' of an apprenticeship and requested that the Department provide clarifying examples. With respect to the request that the Department provide an example of apprenticeship to elaborate on the information provided in the preamble, an apprenticeship lasting 5 years is an example, not a limit. Some apprenticeships will be shorter; a small number may be longer. There is no limit on the length of a training program that consists of an apprenticeship under these rules.

TAA Program funds may be used to pay for the entire length of the educational and instructional component of the apprenticeship even if it exceeds 5 years; however, the length of the paid work-based learning may not exceed 130 weeks. As for the request to provide additional clarification on apprenticeships under the TAA Program, the Department will provide technical assistance on this topic after the issuance of this final rule and will issue further administrative guidance, if necessary. The final rule adopts § 618.635(c)(1) as proposed.

The same commenter sought guidance on how to report the training in required quarterly reporting. If the participant is still enrolled in an apprenticeship and the educational/instructional component has not ended, the training is still ongoing and would continue to be reported quarterly. The Department recognizes that under this policy, a State will report on the same individual for the entire duration of the apprenticeship. The final rule adopts § 618.635(c)(1) as proposed.

One commenter said that prior administrative guidance established that workers remain enrolled in the TAA Program until they achieve 80 percent of their former wages. The commenter suggested this threshold could be increased to 100 percent of former wages to ensure workers achieve their prior level of financial stability and continue in their careers with new skills. The proposed rule did not retain the previous administrative guidance on this topic because, as proposed, an apprenticeship no longer ends when a worker reaches suitable employment. The Department declines the suggestion for a wage threshold and this final rule adopts § 618.635 as proposed.

Proposed paragraph (c)(2) described the expenses related to apprenticeship that can be covered using TAA Program funds. These costs include expenses for the educational or instructional component of an apprenticeship (tuition, fees, tools, uniforms, equipment, books, etc.). In addition, the employer may be reimbursed not more than 50 percent of the apprentice's regular wage rate for the cost of providing the work-based training and additional supervision related to the work-based training provided by the employer.

One commenter said the definition of ''available at a reasonable cost'' found at § 618.610(f)(2)(ii), which describes what reasonable costs are for trainings, contains important safeguards ensuring States evaluate training program quality adequately and make funding decisions carefully, and it recommended that the Department restate this provision as an introductory paragraph to § 618.635(c)(2). The Department has concluded there is no need to restate this and the final rule adopts § 618.635(c)(2) as proposed.

Another commenter discussed various provisions related to apprenticeship in the proposed rule and provided feedback based on their depth of experience with registered apprenticeships. The commenter said jointly trusteed, labor-management registered apprenticeships do not charge tuition, and apprentices in such programs incur little to no out-of-pocket expenses. The commenter recommended the Department clarify that reimbursable expenses associated with the educational or instructional facets of a training program include costs incurred by participants and the program itself. The commenter also said that in joint labor-management trust apprenticeship programs, the participating employer is the entity that either pays wages or covers costs associated with the program. The commenter recommended the Department clarify that the entity paying wages or covering ''costs of additional supervision'' should be reimbursed, whether that entity is the program sponsor or the participating employer. Additionally, the commenter said it was paramount that States send workers to ''bona fide'' programs that are committed to apprentices' success, and it expressed concerns about States' ability to evaluate new, ''untested'' industry-recognized apprenticeship programs. The commenter recommended revising the provision about the exclusion of certain sponsors (§ 618.635(c)(3)) to separate it into two paragraphs providing that States (1) may not enter into contracts with registered apprenticeship sponsors that exhibit a pattern of failing to provide apprentices with completion certificates, and (2) may enter into contracts with nonregistered apprenticeship sponsors only if they demonstrate a pattern of providing apprentices with industry-recognized credentials. The Department has reviewed § 618.635(c) in light of these comments and has made appropriate corrections to the regulatory text in the final rule by removing all references to sponsors in § 618.635(c), since ''sponsor'' is a term specific to registered apprenticeship, and replacing that term with ''employer.'' With respect to the same commenter's statement that under many registered apprenticeship programs, participants are not charged any out-of-pocket costs, it would not be appropriate to charge a TAA Program participant either. Under apprenticeships, an employer is reimbursed for the extraordinary costs for supervision related to the work-based learning component of an apprenticeship. The removal of the term ''sponsor'' from the section should

provide additional clarity on costs of apprenticeships.

A State workforce agency generally supported apprenticeship and said that it looked forward to learning best practices from other States. The Department appreciates the State's willingness to adopt best practices from other States related to expanding apprenticeship opportunities under the TAA Program.

Apprenticeships Other Than Registered Apprenticeships

Several commenters expressed concern about the provision in proposed § 618.635(c)(4)(ii) to allow TAA Program funds to support apprenticeships that are not registered under the Department's Registered Apprenticeship program. They stated that, in their view, these programs lack important guarantees, requirements, and protections associated with the registered apprenticeship system. Another commenter requested clarity on the acceptable types of apprenticeship opportunities. One commenter expressed concern about the proposed rule's promotion of apprenticeships not registered and described this aspect as a ''deregulatory'' change. The commenter stated that, in its perspective, the proposed rule's description of permissible work-based learning programs as programs that result in a recognized post-secondary credential, which includes an industry-recognized credential, was overly broad and suggested that the provision encouraging TAA Program recipients to pursue apprenticeship opportunities should be limited to registered apprenticeships. Another commenter opposed a definition of apprenticeship in the proposed rule and any definition that would include programs outside of registered apprenticeship. The commenter stated it was imperative to distinguish between registered apprenticeship programs and other work-based learning programs, even if the latter offer industry-recognized credentials. One commenter, while supporting the Department's acknowledgment of work-based training programs as valuable opportunities for AAWs to obtain support under the TAA Program, expressed concerns about TAA Program benefits supporting programs that may not offer pathways to careers in the trades. The commenter recommended revising the proposed rule to either limit all TAA-eligible apprenticeships to the registered apprenticeship system or limit TAA-eligible apprenticeships in the construction industry specifically to that system. Some commenters supported expanding job training opportunities to include apprenticeships as defined by the NAA but did not support including programs that simply result in ''the issuance of a recognized postsecondary credential.'' The commenters expressed concern that allowing programs other than registered apprenticeships would, in their opinion, undermine registered apprenticeships' high standards for work safety and quality. The commenters suggested that other training programs could be included under OJT instead. One commenter stated that the current TAA Program law already contains an OJT program that employers may use if they want to provide paid job training but do not wish to sponsor registered apprenticeships. Another commenter suggested that the Department should prioritize increasing participation in the existing OJT program, and argued that expanding the allowable use of TAA Program funds to include all apprenticeships could undermine the existing options for training under the TAA Program. One commenter said it was crucial that TAA Program funds are spent only on proven programs with demonstrable benefits to workers, and it urged the Department to ensure that its funds support new opportunities for workers and do not subsidize employers for training offered in the ordinary course of employment. Some commenters said it made sense to encourage participation in apprenticeship programs by allowing States to reimburse program sponsors for up to 50 percent of apprentices' wages using TAA Program funds, and they argued that TAA Program involvement with apprenticeship has previously been minimal due to a lack of incentives for workers to pursue apprenticeships through the program. The commenters stated that the subsidy proposed in the rule, however, was substantial and would require close scrutiny because more than 730,000 programs in the United States offer industry-recognized credentials, but, in their view, many fall short of the apprenticeship standards outlined in the NAA. One commenter generally supportive of apprenticeship expansion efforts nevertheless recommended that the Department reserve the significant financial support proposed in the rule for registered apprenticeships only. The commenter stated that registered apprenticeships must comply with reporting requirements and meet certain criteria around job quality, and it suggested the Department should use TAA Program funds to support registered apprenticeships rather than promote apprenticeships with weaker protections and lower quality standards.

Many of these comments stated that training approved under the TAA Program must, or at least should, meet the Registered Apprenticeship program standards established by the Department pursuant to its authority under the NAA and set forth at 29 CFR parts 29 and 30. But the TAA Program is not governed by the regulations implementing the Registered Apprenticeship program, and a broad range of employer-based training is allowed under the Act. The Act's standards for the benefit of workers and its criteria for approving training continue to be met under this final rule, as they have in the past.

With respect to commenters' concerns about proposed § 618.635(c) allowing apprenticeships under the TAA Program that are not registered apprenticeships under the NAA, section 236(a)(5)(G) of the Act provides the Secretary significant latitude in determining which types of training States may approve under the TAA Program. Section 236(a)(5)(A) of the Act also provides that employer-based training is allowable under the TAA Program and provides a nonexhaustive list of the types of allowable employer-based training. Using these two provisions, both registered apprenticeships and nonregistered apprenticeships have always been allowable types of training under the TAA Program. The proposed rule changed the benefits available for these training programs. In addition, proposed § 618.635(c) adopted the labor protections established in the Act for OJT as requirements for apprenticeships to provide additional protections. Lastly, proposed § 618.635(c) required any nonregistered apprenticeship to lead to the issuance of a recognized post-secondary credential, which includes an industry-recognized credential. TAA Program data have shown that participants who complete training and receive a credential have better outcomes than those that do not complete training or those that complete training but do not receive a credential. This requirement for a recognized post-secondary credential, when combined with employer-based training, promotes better outcomes for TAA Program participants. Accordingly, no changes were made to the regulatory text in response to these comments.

Proposed paragraph (c)(7) defined the term ''sponsor'' as it relates to apprenticeships. Proposed paragraph (c)(8) required the State to enter into a contract with the sponsor that establishes the terms and conditions of the apprenticeship. As explained in the above discussion of § 618.635(c)(2), the

Department has removed all references to sponsors in § 618.635(c). Accordingly, the Department has also removed proposed § 618.635(c)(7) from the final rule, since ''sponsor'' is no longer a term used in the rule, and redesignated proposed § 618.635(c)(8) as § 618.635(c)(7). Aside from the changes discussed above, the final rule adopts § 618.635 as proposed.

Section 618.640 Supplemental Assistance

Proposed § 618.640 discussed supplemental assistance that must be provided to trade-affected workers to defray reasonable subsistence and transportation expenses while a worker attends training at a facility outside of his or her commuting area.

Paragraphs (c) and (d)

Proposed § 618.640(c) and (d) discussed the requirements for supplemental assistance in the form of subsistence and transportation payments for TAA approved training participants.

The proposed requirements for subsistence payments were that trade-affected workers must be reimbursed for subsistence only for the period when they are not receiving or authorized to receive reimbursement or separate payments for such costs from any other source; that subsistence payments must not be made for any day when a worker receives a daily commuting transportation payment from TAA Program funds or any other source (except under certain circumstances, outlined at § 618.640(e)); and that subsistence payments must not be made for any day of unexcused absence from the training program.

The Department received comments on this section and responds to them below. The Department is finalizing this section as proposed, with the exception of the insertion of the phrase ''trade-affected'' in front of ''worker'' in paragraph (c)(2) and the correction of the use of a pronoun. One commenter questioned whether the proposed language at § 618.640(c)(2)(iii), which generally prohibited subsistence payments for any day a trade-affected worker receives a daily commuting transportation payment from TAA Program funds or another source, would allow subsistence payments for days when an absence is excused. The Department has specifically disallowed subsistence payments on days where an absence is unexcused and the State would be required to determine if a subsistence payment is necessary in the event of an excused absence.

One commenter said that the provision at proposed § 618.445(a)(1)(i) and (ii) allowing for different relocation completion deadlines for training participants inside and outside of a commuting area would necessitate programming adjustments to case and data management systems in order to achieve compliance. The Department explains that § 618.640(c) and (d) refer to subsistence and transportation assistance as part of an approved training program, not relocation allowances.

The same commenter also questioned whether the ''maximum limit'' on reimbursement of mileage outside the defined commuting area referred to a daily or overall limit. The Department confirms that it is a daily limit, as provided in § 618.640(d)(2) and (3). The State must determine whether it is more cost effective to provide subsistence payment in lieu of daily transportation costs. If the State determines that subsistence would be more cost effective, the trade-affected worker may choose to commute each day, but will be reimbursed only the costs determined under the subsistence benefit.

One commenter questioned whether mileage reimbursements would begin ''at the mile beyond the definition'' rather than ''mile one'' for trade-affected workers traveling beyond the normal commuting area. Another commenter questioned whether the provision at paragraph (d) indicating transportation payments are only available for miles outside of a worker's commuting area was meant to indicate that all workers attending training would receive transportation reimbursements. As proposed in § 618.640(d), reimbursement is for mileage beyond the commuting area. Thus, ''mile one'' is the first mile outside of the regular commuting area. Trade-affected workers may receive supplemental assistance, including transportation, only if it is part of a TAA approved training program.

One commenter expressed concern that the decrease of mileage reimbursement in proposed § 618.640(d) and alignment of TAA approved training caps with lower local area WIOA caps, as described in the preamble to the proposed rule in § 618.650, would result in reduced AAW benefits, and it recommended eliminating these changes. The Department addresses training caps in proposed § 618.650 in that section of the final rule preamble below. The statute provides that the Secretary can authorize payments of supplemental assistance where appropriate. The final rule codifies (as proposed) that supplemental assistance is allowable only if the trade-affected worker is accessing training outside of the worker's commuting area, in accordance with section 236(b) of the Act, and that the reimbursement is limited to the mileage outside of that area. For workers co-enrolled with WIOA, that program could cover the transportation costs within the commuting area as a supportive service.

One commenter questioned whether States would be permitted to set definitions of commuting distance. The Department has determined that States may set new definitions or look to applicable State law. If no such law exists, States will need to establish a definition for purposes of this part 618.

One commenter said the provision at proposed paragraph (d) to restrict transportation payments to miles beyond a trade-affected worker's commuting area would cause issues in its State because each WIOA region only covers specific commuting areas and pays different rates for transportation. The commenter also said this provision contradicts the principle of making TAA Program funds the primary source of Federal assistance for workers. A few commenters said that in their States, WIOA currently covers travel in the commuting area, and they argued that limiting TAA-funded reimbursement to miles outside of a commuting area would needlessly ''shift'' TAA Program supportive services onto WIOA. The commenters said this would be especially burdensome in States with large rural areas, such as the commenters' States. These commenters also stated that limiting reimbursement to miles outside of the commuting area would force local areas to process multiple mileage reimbursements for the same trip, and since local areas set different reimbursement rates, the same worker could receive different WIOA mileage rate reimbursements across the State. Section 236(b) of the Act provides that when trade-affected workers are outside of their commuting area, supplemental assistance may be provided where appropriate. The proposed rule established conditions for such assistance and reflected the Department's determination for when supplemental assistance is appropriate. As for the same commenter's concern that there is a contradiction among the proposed rule and support services under WIOA, the language in proposed § 618.640, and the requirement that TAA Program funds be the primary source of funding for TAA Program workers, the Department disagrees that there is a contradiction. Under the TAA

Program, the Department considers reimbursing mileage within a defined commuting area a supportive service that would be allowed under a partner program, such as WIOA. The definition of commuting area (or commuting distance) is left to the States. This definition may already exist in State UI law, regulations, or program policy. If no such definition exists, the State must establish one for purposes of the TAA Program.

Some commenters also questioned whether transportation payments were meant to be limited to 90 percent of the prevailing personal vehicle mileage rate, and they asserted that such a limitation would mean less TAA Program funding would be used, workers might not receive sufficient reimbursement to cover their travel costs, and additional calculations at the time of approval and payment would be required. One commenter said the revision establishing a maximum limit of 90 percent of the cost per mile at the prevailing personal vehicle mileage rate was inconsistent with prior administrative guidance, which requires that transportation payments must cover the entirety of a worker's commuting distance. The Department clarifies that although the preamble to the proposed rule in § 618.640(d) included a discussion of the establishment of a 90-percent limit on the cost per mile, the Department did not intend to establish such a limit, as reflected in the proposed regulatory text, which did not include such language, and such limitation is not included in the final regulatory text.

One commenter requested additional clarification on whether States could determine if payments will occur on a weekly or monthly basis, stating that reimbursements could be less than $10 in some instances and requiring weekly reimbursements for such small amounts would create administrative strain and unduly burden workers who must travel to recoup their reimbursements. The proposed rule, as adopted in the final rule, provided at § 618.640(c)(4) and (d)(4) that payments for supplemental assistance must be paid at the completion of a week of training. With the availability of electronic payment processing, the Department does not conclude that this is an undue burden on States, and many trade-affected workers are already under financial strain. The TAA Program provides sufficient funding to the States to meet this requirement and ease the additional financial burden placed on workers that need to travel to participate in training.

Paragraph (e)

The Department made two edits to the use of pronouns in paragraph (e).

Paragraph (g)

Proposed § 618.640(g) provided that trade-affected workers must provide receipts for all lodging, purchased transportation expenses, and meals as evidence of incurred expenses. Some commenters requested more clarity on what is meant by ''purchased transportation expenses'' and questioned whether the provision will require workers to submit receipts for gas and oil changes and other similar transportation expenses. One commenter questioned whether training participants who travel on a weekly basis would have to submit receipts for gas, and it argued that such a situation would preclude cost savings and place undue burden on the training participant. The proposed rule, as adopted by the final rule, provided that trade-affected workers travel in accordance with the FTR. If a worker is traveling by privately owned vehicle, the program reimburses at the rate established by the rate per mile established by GSA. The GSA rate per mile takes into account wear and tear as well as regular maintenance costs, as well as the cost of fuel. So, the receipts in question would be for purchased transportation, such as rental cars, buses, trains, airfare, ride-share services, and tolls. Receipts are required for these other types of transportation costs but are not needed for fuel unless a worker is utilizing a rental car. A State may use an online mapping tool to determine the mileage traveled. If the training location does not change, the mileage would need to be documented only once.

No changes have been made to § 618.640 as a result of these comments. The Department made a nonsubstantive edit in paragraph (b) of this section to correct a cross-reference to the section heading of a different section; otherwise, the final rule adopts this section as proposed.

Section 618.645 Voluntary Withdrawal From a Training Program

Proposed § 618.645 established a new requirement regarding a trade-affected worker's voluntary withdrawal from a training program. This provision had no comparable counterpart in previous regulations or in administrative guidance.

During its oversight of the TAA Program, the Department has encountered numerous situations where a trade-affected worker has withdrawn from training. States have also requested technical assistance and interpretations of the Act and regulations related to this topic. This section provides direction to the States on this topic. The Department is finalizing this section as proposed, except for the changes described herein, and an edit to the use of a pronoun in paragraph (e).

One commenter supported the proposed provisions at § 618.645 and specifically § 618.645(a), which provided that States must advise trade-affected workers that withdrawal from a TAA approved training may result in an overpayment and ineligibility for TRA.

One commenter said in response to proposed paragraph (a) that its State does not currently have a mechanism to collect overpayments and asked whether having such a mechanism in place was mandatory for every State. The same commenter expressed concern that the provision could discourage some workers from engaging in TAA approved training. While the proposed provision requiring States to notify trade-affected workers that voluntary withdrawal from a training may be established as an overpayment and may result in ineligibility for TRA is new, the requirement to establish and collect overpayments related to training is not new and was included in the previous regulations at 20 CFR 617.55.

One commenter supported the provision at § 618.645(d) permitting workers to continue to receive job search and relocation assistance if they withdraw from training for good cause. The Department appreciates the commenter's support of this provision.

One commenter asked why the provision at proposed § 618.645(e)(1)(ii), which provided that States must continue funding an approved training program as long as training benchmarks at proposed § 618.660 continue to be satisfactorily met, refers to training benchmarks since these are only required for workers who need Completion TRA. The commenter suggested the regulation should specify that States need to have ''a similar process'' in place for workers not eligible for TRA. Although the statute only explicitly requires benchmarks for payment of Completion TRA, the Department has previously addressed the issue of training benchmarks in administrative guidance. This final rule requires, in § 618.660(b), that training benchmarks be established for all but short-term training. This ensures that States are remaining in contact with trade-affected workers enrolled in training and allows for any issues that arise during the training to be addressed in a timely manner in order to ensure a positive outcome for the worker. The

Department has revised the proposed regulatory text, by removing proposed § 618.645(e)(1)(i) and (ii) and incorporating the substance of proposed § 618.645(e)(ii) into the final regulatory text at § 618.645(e), in order to clarify that if a trade-affected worker wishes to withdraw from training, he or she may do so, subject to the provisions of this section. A State cannot subsequently deny training, after initially approving a training program, based on a later availability of suitable employment. This edit also conforms to the changes made to §§ 618.615 (limitations on training approval) and 618.630 (training of reemployed trade-affected workers).

Section 618.650 State Standards and Procedures for Establishing Reasonable Cost of Training

Section 236(a)(1)(F) of the Act requires States to approve training suitable for the trade-affected worker and available at a reasonable cost. Proposed § 618.650 set forth State standards and procedures for establishing reasonable cost of training. Proposed § 618.650 did not have a counterpart in the previous regulations at 20 CFR part 617. The Department is finalizing this section with a minor revision described below.

Proposed § 618.650(a) provided that while a State is not prohibited from setting a statewide limit or limits for local workforce development areas on the amount of training costs considered reasonable and appropriate for training programs, any limits the State establishes must reasonably take into account the cost of training available in local workforce development areas throughout the State (and any statewide limit must recognize that costs may vary significantly between urban and rural areas). Proposed § 618.650(a) also provided that expenditures must be prudent under the standards of the OMB's Uniform Guidance (2 CFR 200.404) and its attendant interpretive guidance, and that States must comply with the standards for reasonableness in proposed § 618.610(f)(2), including those permitting States to allow training other than the least cost option if the extra cost is justified by better trade-affected worker outcomes or a faster return to the workforce.

In the NPRM, the Department also solicited public comments regarding an alternative approach to establishing a definition of ''available at a reasonable cost'' wherein the Department would promulgate a regulation providing that a soft cap would be initially established as the local area's established limit for ITAs under WIOA. Under this alternative approach, the local area would be able to request to exceed this cap to meet the needs of the trade-affected worker.

Two commenters maintained that their States would not support a soft cap establishing a local area's limit for ITAs under WIOA and opposed coupling the limit on training costs because of the many differences between the WIOA and TAA programs. One of these commenters said that in its State, caps on WIOA training funds are very low and almost all TAA approved training programs would need to include requests to exceed the cap. Another commenter similarly claimed that, in its State, local areas' ITA caps are below the State TAA approved training cap and the soft cap alternative would mean most training approval requests would seek to exceed the cap. The commenter stated that the approach proposed at § 618.650(a) would be less burdensome than the alternative approach. One commenter said its State has a training cost ceiling but evaluates training requests individually and will approve reasonable trainings with costs above the soft cap. The commenter argued that, since its State's training locations are limited, a soft cap should be regulated at the State level. One commenter recommended revising the last sentence of § 618.650(a) by replacing ''local area'' with ''trade-affected worker.'' Comments, including those above, opposed the alternative using the ITA limit as a soft cap and coupling the limit on training with WIOA. The Department appreciates the feedback and will not be adopting the alternative proposal into the final rule. The demographic differences between TAA Program participants and WIOA participants is significant enough that the training and service needs of trade-affected workers often require additional resources beyond what WIOA would traditionally provide. Accordingly, no changes have been made to the regulatory text in response to these comments. The final rule adopts the proposed limitations for States that choose to implement one.

Paragraph (b) of proposed § 618.650 provided that States must develop transparent standards and procedures that provide for prompt consideration of any request for approval of training costs that exceed an established training cost limit. This paragraph required that the review standards developed by the State must allow for approval of costs that exceed the applicable training cost limit when a training program will provide the most reasonable way of returning a trade-affected worker to employment at higher wages or place the worker on a pathway to do so.

A commenter recommended that the Department reconsider the use of the term ''career pathway'' in proposed paragraph (b) since this is a technical term defined in the WIOA regulations, and it recommended deleting the word ''career'' from the second sentence of this paragraph. The Department concurs with the commenter and has made this change to the regulatory text at § 618.650(b) of the final rule.

Section 618.655 Training for Adversely Affected Incumbent Workers

Proposed § 618.655 addressed the approval of training for AAIWs. Proposed paragraph (a) clarified that AAIWs are eligible for approved training before separation, and further clarified that AAIWs may apply for training and States may approve training for any AAIW at any time after the date on which he or she is determined to be individually threatened with separation regardless of filing for, receiving, or exhausting UI. Proposed paragraph (b) clarified how a State will verify that an AAIW is threatened with total or partial separation.

One commenter expressed general support for serving AAIWs through partnerships between the TAA Program and rapid response and also provided a neutral response regarding serving AAIWs because of the low number of certified firms in its State.

The Department is adopting this section in the final rule as proposed, with the exception of edits to the use of pronouns in paragraphs (a) and (e).

Section 618.660 Training Benchmarks

Proposed § 618.660 provided the process for establishing and monitoring compliance with training benchmarks. Benchmarks are required by section 233(f)(3)(A) of the Act when the trade-affected worker enrolls in an approved training program that will extend beyond the duration of payable weeks of Basic TRA and Additional TRA, for the purposes of eligibility for Completion TRA, in accordance with subpart G. Proposed § 618.660 implemented existing operations of the TAA Program. The Department is finalizing § 618.660 as proposed, except for the one change in § 618.660(c) discussed below.

Paragraph (a)

Paragraph (a) proposed to codify the requirement for States to establish and document training benchmarks for AAWs (and it is recommended to do so for AAIWs) so that they can meet Completion TRA eligibility requirements described at proposed § 618.765. The benchmarks must be

established when the trade-affected worker enrolls in an approved training program so that the State can monitor the worker's progress toward completing the approved training duration limits set forth at proposed § 618.615.

A State workforce agency asked whether the training benchmarks apply to AAIWs in training and, if not, whether the State may require benchmarks for all trade-affected workers in training in order to monitor adequately their progression through trainings. The Department encourages States to utilize training benchmarks for all workers, including AAIWs. AAIWs are ineligible for Completion TRA, but as the AAIW may become an AAW upon separation, it is highly recommended that training benchmarks be put in place at the start of the AAIW's approved training program.

Paragraphs (b) and (c)

Proposed paragraph (b) required training benchmarks to be established for all but short-term training programs, such as a 3-month certificate program, and proposed paragraph (c) provided that to review the trade-affected worker's progress against the benchmarks, States may request that the training provider provide documentation of the worker's satisfactory progress, including instructor attestations, progress reports, etc.

One State workforce agency asked whether the Department intended to use the term ''training provider'' instead of ''vendor'' at § 618.660(c), and it expressed confusion over the use of different terms. The Department concurs with the commenter that the use of the different terms is confusing and has changed the proposed regulatory text from ''vendor'' to ''training provider'' in the final rule at § 618.660(c).

Paragraph (f)

Proposed paragraph (f) required a State to evaluate and document satisfactory progress against two benchmarks: (1) The AAW is maintaining satisfactory academic standing (*e.g.,* not on probation or determined to be ''at risk'' by the instructor or training provider); and (2) the AAW is on schedule to complete training within the timeframe identified in the approved training program.

One State workforce agency said that AAWs might be disadvantaged in States that require benchmark reviews more frequently than every 60 days since workers would have less time to demonstrate their progression within a training program and would be more likely to fail subsequent reviews. The 60-day period was established in prior administrative guidance and the Department recognizes that many States have implemented case management processes that require a check-in with workers at least once every 30 days, which can inform a benchmark review but not take the place of one. The Department has determined that the proposed time period is sufficient and meets the requirement at § 618.660(e) that training benchmarks be flexible enough to allow for some variability and both practical and measurable enough to allow administration across a broad spectrum of training scenarios and State environments. The Department, therefore, is adopting § 618.660(f) in the final rule as proposed.

One commenter requested clarification on what the Department meant in the preamble to the proposed rule when it stated that inclusion of benchmarks should occur when the training program is ''initially established and approved'' because contracts are sometimes placed months in advance of the start of a training program. Proposed § 618.660(f) required that benchmarks are to be evaluated and documented every 60 days beginning with the start of the approved training program. This may or may not align with when the contract is executed or an enrollment occurs. The 60-day period starts on the first day of actual training. The Department has retained the regulatory text at § 618.660(f) in the final rule as proposed.

Paragraph (g)

Under proposed paragraph (g)(1), upon failure to meet either or both of the benchmarks for the first time during the same evaluation period, the State must provide a warning to the AAW that his or her eligibility for Completion TRA is in jeopardy.

One commenter said the provision at § 618.660(g)(1) regarding ineligibility for previous benchmark failures appeared punitive. The commenter asked if there was a good cause exception to such ineligibility. The Department reiterates that the ineligibility for Completion TRA as a result of benchmark failures is statutory as provided in section 233(f)(3)(A) of the Act. Furthermore, this is not a change from current practice. Two unresolved benchmark failures will result in a loss of eligibility. However, as is also current practice, a training program can be amended to assist a worker to successfully complete training.

Proposed paragraph (g)(2) provided that, if an AAW who has previously failed to meet a benchmark under paragraph (g)(1) fails to meet a benchmark during a subsequent benchmark review under paragraph (f), the State must notify the worker of his or her ineligibility for Completion TRA. An AAW may elect to continue in the approved training but will not receive any Completion TRA payments; or, the training program must be amended according to proposed § 618.665, and Completion TRA payments may resume.

Some commenters requested clarification under proposed § 618.660(g)(2) on whether a worker's failure to meet a different benchmark during a ''subsequent benchmark review'' will result in the loss of Completion TRA. These same commenters asked if under proposed § 618.660(g)(2) a client would lose Completion TRA if they were found to have resolved the original issue, but failed to meet a second benchmark, in the subsequent review. One commenter asked how this ineligibility clause would be applied to instances when a worker's failed benchmarks relate to different classes. The Department has determined that, after the first failure, if a warning and training program modification corrects the issue, then the failure ''resets'' and the AAW is considered to have no failed benchmarks. If, however, a first failure is not resolved and a second benchmark is failed with the first benchmark failure still outstanding, then a training program modification is required. If the worker fails to comply with the requirement to amend his or her training program, the worker must be notified of his or her ineligibility for Completion TRA. If the training program is amended, the worker can resume training and remain eligible for Completion TRA.

One commenter asked whether a State may take corrective action and provide assistance to an AAW if the State learns that the AAW is struggling with his or her training because of failing or withdrawing from classes. The State can provide assistance to the worker in a proactive manner in order to ensure a timely and successful completion of the training. The Department affirms that any corrective action taken should be documented on the worker's IEP and could include amending the training program. The Department made two edits to the use of pronouns in paragraph (g). No other changes were made to the proposed regulatory text at § 618.660(g) in the final rule.

Section 618.665 Amending Approved Training

Proposed § 618.665 provided conditions for amending an approved

training program. Proposed § 618.665 recognized that more substantial amendments may be necessary to provide trade-affected workers with skills necessary to obtain employment and sets forth the circumstances, and conditions, under which amendments must be made.

Paragraph (a)

Proposed paragraph (a) required the State to work in cooperation with the trade-affected worker in amending a training program where the need for such amendment was not foreseeable and where the worker demonstrates good cause for the need to amend. Proposed paragraphs (a)(1)(i) through (x) provided the list of conditions to be met for an amendment to be appropriate. Proposed paragraph (a)(2) provided that the training duration limits at proposed § 618.615(d)(3) apply to amended programs. Proposed paragraph (a)(3) required an amendment to be made before completion of the original training program.

One commenter said the process for modifying training programs set forth in proposed § 618.665(a) would allow for the creation of more customized training programs that align with AAWs' needs and would encourage ''creative mixes'' of classroom and work-based trainings. Another commenter expressed support for the added flexibility with respect to approved training programs because such flexibility would improve employment outcomes and result in higher wages. The Department appreciates the commenters' support of these provisions.

One commenter asked how the Department intended to define ''industry-recognized credential'' as it appears in proposed § 618.665(a)(1)(ii). The Department addressed this in response to a similar comment in § 618.635. The term ''industry-recognized credential'' is not defined in the Act; however, the term ''recognized postsecondary credential'' is defined in section 247(19) and that term also is used in section 239(j)(2)(A)(i)(IV) to identify a factor in one of the primary indicators of performance that the State must report to the Secretary. Section 3(52) of WIOA contains the same term and definition for similar reporting purposes. Industry-recognized credentials are a subset of recognized postsecondary credentials. The Department has determined that no further definition is needed in this final rule.

One commenter expressed support for the proposed provision to amend a worker's approved training program in § 618.665. The commenter asked if § 618.665(a)(1)(iv) applies if approval of a short-term training would improve employment prospects. The commenter also asked whether the Department had considered a time limit on trade-affected workers' ability to amend their training program with a different occupational goal. Under the proposed rule, and as adopted in the final rule, a training program can be amended to shorten it if the shorter training will improve the likelihood of employment. The Department considered establishing a time limit on when a trade-affected worker can amend his or her training program to another occupational goal, but decided not to in order to allow States flexibility to serve the varying needs of trade-affected workers.

The same commenter also asked if the provision at proposed § 618.665(a)(1)(v), which explains that an amendment to an approved training program is appropriate if the worker cannot successfully complete the originally approved training program, extended to ''any reason.'' The Department asserts that the concept of reasonableness always applies to Federal regulations. This is not, and should not be viewed as, an allowance to amend for any reason.

With respect to the limit of one training program per certification set forth in proposed § 618.655(d)(3), a State workforce agency asked what circumstances would transform a training amended under the provisions at proposed § 618.665(a)(1)(v), (vi), and (vii) (listing conditions that may allow an amendment) to an entirely new training program. A training program may be amended up until the time the trade-affected worker has completed the entire training program as originally approved. Only if a worker had completed his or her approved training program, and then sought additional components to add to the training program, would there be a second training program. The Department affirms that the provisions established in § 618.665 are sufficient to prevent workers from receiving more than one training program per certification and do not establish entitlement to a second training program.

One commenter stated its interpretation of the language at proposed § 618.665(a)(1)(i) through (x) was that the TAA Program would no longer limit each worker to one training as long as at least one of the conditions in paragraphs (i) through (x) is satisfied, and it asked the Department to confirm this interpretation. The Department reiterates that allowing amendments is not the same as providing a second training. Amendments are merely modifications to the trade-affected worker's one training program. The one training program policy is still in place. A worker could not, for example, complete an entire training program and then apply for another training program. The Department has made an edit to the use of a pronoun in paragraph (a)(1)(iii).

Paragraph (b)

Proposed paragraph (b) sets forth the criteria that must be met in order for a training program to be amended.

One commenter asked why the assessment of labor market conditions at proposed § 618.665(b)(1) is limited to the trade-affected worker's commuting area or the area of the worker's intended relocation. The same commenter stated that this provision was ''unnecessarily limiting'' and argued that workers may be willing to commute longer distances for suitable employment. The commenter also said proposed § 618.665(a)(2), providing that the training duration limits at proposed § 618.615(d)(3) apply to amended programs, was ''overly limiting'' since workers may seek to travel a longer distance to attend a higher quality training even if there is a suitable training program that aligns with their occupational goals within their commuting area. The commenter's statement that workers may be willing to commute farther for what they perceive to be higher quality programs was also directed at the language in proposed § 618.665(b)(1)(iv), which explains that amendment is appropriate if the worker has a reasonable expectation of employment in a limited demand occupation in their commuting area. The Department has determined that without this limiting language, a State could require an unreasonable work search across a broad geographic area. Although workers may choose to seek and accept employment outside of their commuting area without relocating to that area, they need not do so to be eligible for training. Thus, the requirements are limited to the commuting area or to where the worker intends to relocate.

The same commenter said many of its comments concerning the language in proposed § 618.610, which addresses criteria for initial approval of training, also applied to proposed § 618.665 and asked why the Department determined it was necessary to repeat these provisions in both places. Not all of the provisions in § 618.610 are repeated in this section because they do not all apply when amending a training program. Therefore, the Department chose to list those requirements that do apply in proposed § 618.665.

The Department made a nonsubstantive edit in paragraph (b)(3)(iii) of this section to correct a cross-reference to the section heading of a different section, two edits to the use of pronouns in paragraph (b)(1), and an edit to subject-verb agreement; otherwise, the final rule adopts this section as proposed.

One commenter argued that it would make more sense to consider general labor market information, rather than just the information in the worker's case file, when seeking to amend an approved training. The Department affirms that the regulatory text at proposed § 618.665(b)(1) requires an examination of the labor market conditions at the completion of the training program. If the end date of the training program has been modified, or will be modified as a result of the amendment, the State would need labor market information beyond that which is likely to already be included in the trade-affected worker's case file.

One commenter said that while proposed § 618.665(b)(1)(ii) states, in part, ''as identified on the worker's IEP, if available,'' the provision at § 618.350 indicates that an IEP must be documented before a worker can receive training under the TAA Program. The documentation requirement was addressed previously in the final rule preamble under subpart C.

The same commenter also asserted that proposed § 618.665(b)(1)(ii) indicates that the original occupational goals cannot be amended, a provision that may conflict with the language at proposed § 618.665(a)(1)(vii), which included ''[t]raining in another occupation will lead to a greater likelihood of training completion or a better employment outcome'' as a basis for amending approved training. The cited provision does not prohibit a change in occupational goals. The IEP is dynamic and can and should be revisited throughout a trade-affected worker's enrollment in the TAA Program. If a change in occupational goal is determined to be appropriate, the IEP will need to be updated.

The final rule adopts the regulatory text in § 618.665 in the final rule as proposed.

G. Subpart G—Trade Readjustment Allowances

Subpart G covers the eligibility requirements for, and the amounts and duration of, TRA. Subpart G reorganizes and simplifies some of the provisions of 20 CFR part 617 to make them easier to follow and modifies or excludes some provisions of part 617 to reflect statutory amendments and policy determinations found in administrative guidance. Where the Department received comments on specific paragraphs within a section, details of those paragraphs as proposed in the NPRM are included to provide context for the discussion of comments that follows. No comments were received on proposed §§ 618.700 and 618.770. Those sections are adopted in the final rule as proposed.

Section 618.705 Definitions

Proposed § 618.705 had no comparable counterpart in previous regulations or in administrative guidance. It established for the first time definitions of the terms ''participating in approved training'' and ''training allowance'' as used in this proposed subpart G. It also addressed the issue of wages as it relates to a successor-in-interest.

Proposed paragraph (a)(1) of this section defined the phrase ''participating in approved training'' generally, relative to attendance and taking part in on-site classes, activities, and events as well as covering excused absences.

A State workforce agency asked for more information about what documentation is needed to show, under paragraph (a)(1) of this section, that a worker's absence from or failure to take part in training was excused by the training provider in accordance with the provider's written policies. The Department has determined that documentation may be varied and includes, but is not limited to, a written or electronic note or a documented phone call. Specific questions about this issue should be discussed with the appropriate regional office.

Proposed paragraph (c) of this section defined the term ''adversely affected employment'' and was derived from the definition of the term ''firm'' contained in 29 CFR 90.2 and in proposed § 618.110, which provided that any predecessors or a successor-in-interest are considered part of the same firm for purposes of proposed subpart B. Proposed paragraph (c) extended that logic to the wages earned by an AAW that may be reported under the subject firm named on a petition, a predecessor, or a successor-in-interest. For purposes of TRA, wages reported to a State or paid to an AAW by a successor-in-interest are to be treated as weeks and wages in adversely affected employment for purposes of establishing TRA eligibility.

One commenter said that paragraph (c) was a ''welcome addition'' because it removes the ''inconvenience'' of having to track down the names under which an employer's predecessors or successors, or both, operated in order to include them in certification documents. The Department appreciates this feedback.

The Department has made no changes to this section in response to these comments and adopts it into the final rule as proposed.

Section 618.710 Categories of Trade Readjustment Allowances

Proposed § 618.710 explained that there are three categories of TRA: Basic, Additional, and Completion, which were discussed in proposed paragraphs (a), (b), and (c), respectively. This proposed section had no parallel in 20 CFR part 617 but was part of administrative guidance.

Proposed paragraph (b) described Additional TRA as payable to an AAW who meets the requirements of proposed § 618.760, which set forth qualifying requirements for, and the timing and duration of, Additional TRA, and stated that Additional TRA begins the first week after exhaustion of Basic TRA.

The Department received no comments on proposed § 618.710. However, upon review of the proposed regulatory text, the Department has determined that the statute does not explicitly require the exhaustion of Basic TRA as an eligibility criteria for Additional TRA. As a result, the Department has edited the second sentence of paragraph (b) of this section to remove this requirement, and has otherwise adopted the section as proposed.

Section 618.715 Applications for Trade Readjustment Allowances and Payment

Proposed § 618.715 pertained to applications for TRA and payment. Paragraph (a) addressed the timing of TRA applications; paragraph (b) set forth the procedures for filing applications; paragraph (c) addressed how determinations of the applications should be treated; paragraph (d) discussed matters related to payment of TRA; and paragraph (e) pertained to the taking of applications for TRA benefits. The Department is finalizing this section as proposed, except for the changes described herein.

Paragraph (a)

Proposed paragraph (a) of this section modified 20 CFR 617.10(b) to specify that an application for TRA must be filed after a certification is issued. It also omitted all references to applications for TRA that appeared in 20 CFR 617.10(b) for weeks of unemployment beginning

before the initial application for TRA is filed because doing so would needlessly confused the requirement that TRA cannot be paid until an AAW is covered by a certification as described in proposed paragraph (d) of this section. Proposed paragraph (a)(2) of this section provided that an application for TRA must be filed within the time limit applicable to claims for regular compensation under the applicable State law.

One commenter requested clarification about the requirement in paragraph (a)(1) of this section that TRA applications be filed after publication of the certification of the appropriate worker group, asking whether this meant publication by the Department in the **Federal Register** or by the State itself. The same commenter said that waiting for **Federal Register** publication could be ''problematic'' in its State, because local area one-stop center staff collect TRA applications at TAA Program orientation meetings, which require ''multiple steps'' to be scheduled, and then transmit the applications to State-level administrators for processing, and ''[n]one of this activity is tied to'' a notice appearing in the **Federal Register**. The commenter added that the only ''timeliness issue'' it could anticipate under the present approach would be if the one-stop center provided proper notice of an upcoming orientation and the trade-affected worker neither attended nor made plans to attend on an alternative date. The certification date on the determination document would govern for this purpose, not the publication in the **Federal Register**. The Department has revised the rule in paragraph (a)(1) to remove the reference to publication of the certification to remove any confusion over when an application may be filed. The revision makes it clear that the application may be submitted as of the certification date of a petition.

The same commenter also asked how States should implement this provision for AAWs who are separated later in the certification period. States must work with firms to continually update worker lists of those workers that have separations and threats of separations throughout the duration of the certification period.

Paragraph (c)

Proposed paragraph (c) of this section established that TRA determinations are subject to specified requirements in proposed subpart H concerning determinations, appeals, and hearings. It also required that an AAW's case file include the worker's TRA application(s) and the determinations on those applications.

Two commenters provided feedback on the requirement in paragraph (c) that States maintain copies of TRA applications and determinations in AAWs' case files. One commenter, saying that in its State separate agencies administer the TAA Program and TRA, asked whether the Department intends in such cases for the TAA Program agency to keep the applications in its files or for the TRA agency to maintain them. The Department has considered this comment and has determined that it is the State's prerogative to determine where the TRA application is kept. TRA records must be stored according to Federal and State records retention requirements and made available to the Department for review, as appropriate.

One commenter described a similar division of responsibilities between State agencies, with TRA determinations maintained electronically, and asked whether this requirement meant needing to keep paper copies as well, which it said would be ''a waste of paper.'' The Department maintains that participant records may be electronic or paper, but must be accessible to case managers and other State and Federal officials who require access to a trade-affected worker's case file. State files and recordkeeping procedures are at the discretion of the State but if there is a lack of file integration between agencies who administer the TAA Program and TRA, then States may use TAA Program funds to improve their case file integration and accessibility. States may have to examine and modify policies and procedures to ensure that appropriate individuals have access to a trade-affected worker's complete file, including TRA. The Department made a nonsubstantive edit in paragraph (c) of this section to correct two cross-references to the section headings of different sections; otherwise, this final rule adopts this section as proposed. No changes to the regulatory text have been made in response to this comment.

Paragraph (d)

The Department has made an edit to the use of a pronoun and subject-verb agreement in paragraph (d).

Paragraph (e)

Proposed paragraph (e) of this section provided that an application is required for each TRA benefit type available to the AAW, however, as discussed below, paragraph (e) of this section has been modified in this final rule.

Multiple commenters addressed the requirement in paragraph (e)(1) of this section that States collect separate applications for Additional TRA, where an application for Additional TRA was not previously required. Many of the commenters expressed concern that this change would delay the payment of TRA benefits to workers, with one of the commenters saying the provision would lead to ''unnecessary paperwork'' and another commenter maintaining that it could present ''financial hardship'' for AAWs. A few commenters said that in their States, workers can move from Basic TRA to Additional TRA automatically, with no separate application needed, as long as certain requirements are met, and they suggested this approach be maintained. The commenters argued that separate applications would increase administrative burdens on States or would entail ''substantial changes'' to their systems. One commenter questioned whether requiring separate applications for Additional TRA was intended to provide accountability around workers' participation in training. Another commenter requested clarification about the correct implementation of this provision, asking whether States should supply workers nearing the end of Basic TRA eligibility with an application for Additional TRA and a deadline by which to return it. The Department recognizes these concerns and has modified the regulatory text at § 618.715(e)(1) to require an initial application (which is typically for Basic TRA, but could be for Additional TRA if the AAW receives UI for a duration that exceeds Basic TRA) and a separate application for Completion TRA.

It is important for AAWs to be aware that the conditions for receipt of each type of TRA are unique. Therefore, in response to these comments, the Department has established a requirement at § 618.715(e)(3) that AAWs be notified when they move from Basic TRA to Additional TRA so that they are aware of the eligibility conditions they must continue to meet to remain eligible. Providing a notice to AAWs informing them of eligibility criteria at each benefit entitlement stage fulfills due process requirements and reinforces program integrity. This also serves as the record that the State advised AAWs properly, and the State will be better able to sustain a denial of benefits at the appellate level since it will document that benefit information was provided with specificity to all AAWs proximate to the benefit payments.

Section 618.720 Qualifying Requirements for Basic Trade Readjustment Allowances

Proposed § 618.720 set forth the requirements for Basic TRA eligibility and was largely taken from the previous regulations at 20 CFR 617.11(a)(2), but contained some changes.

Paragraph (e)

Proposed paragraph (e) of this section required exhaustion of UI prior to receipt of TRA and sets forth two requirements. First, proposed paragraph (e) makes an exception that exhaustion of additional compensation that is funded by a State, and not reimbursed from any Federal funds, is not required. Second, it explains that whenever an AAW becomes entitled (or would become entitled if the worker had applied) to UI (except additional compensation that is funded by a State and not reimbursed from any Federal funds) TRA eligibility is suspended until the worker again exhausts UI. Proposed paragraph (e)(1) required exhaustion of UI entitlement and was based on 20 CFR 617.11(a)(2)(v)(A) and (B).

One commenter expressed concern about how paragraph (e)(1) of this section defines ''exhaustion of UI,'' saying it is unclear because the definition contains a circular reference to the term being defined. The commenter then quoted the previous definition of this term in 20 CFR 617.3(p) and suggested that the Department adopt this more clear definition of the term from part 617. The Department explains that § 618.720(e) provides that UI entitlement must be exhausted under the conditions at paragraph (e)(1) of this section and not under the conditions at paragraph (e)(2) of this section. The Department has simplified paragraph (e)(1) of this section by adding the words ''except as provided at § 618.720(e)(2)'' to the end of the first sentence and deleting the second and third sentences. The substantive requirement is unchanged. The previous definition of *exhaustion of UI* at 20 CFR 617.3(p) also is retained in its entirety because unlike the TRA requirement presented by § 618.720(e), it explains a different concept that applies to UI and any Federal unemployment such as TRA. Exhaustion of all UI entitlement occurs by either: (1) The receipt of all entitlement (monetary benefits) in a benefit period; or (2) the end or expiration of the benefit period (benefit year ending date), whichever occurs first.

Proposed paragraph (e)(2) of this section codified section 232(d) of the Act. This provision allowed an AAW to elect to receive TRA instead of UI under certain circumstances.

One commenter supported the language in paragraph (e)(2) of this section that provides workers the option of receiving TRA rather than UI, saying that access to TRA would help workers in work-based training who are ''connected to employment'' but still require income supports to bring their initial earnings closer to their former wages. The final rule adopts the regulatory text in paragraph (e)(2) of this section into the final rule as proposed.

Proposed paragraph (e)(3) of this section detailed the requirement that States provide the AAW with a summary of their potential UI and TRA benefits in writing and document the AAW's choice in the case management file.

One commenter, citing the requirement in paragraph (e)(3) of this section that States provide AAWs a written summary of their potential TRA and UI benefits and document the AAW's choice in his or her case file, asked whether, in States where separate agencies handle the TAA Program and TRA/UI, the TAA Program agency would need to document the AAW's choice in its files or if it would suffice for the TRA/UI agency to document the choice in its files. A different commenter said that the provision would require changes to the UI system in its State to ensure proper documentation. It is important that a record of actions taken and the choices selected by the AAW be documented and readily available for review by the Department. Whether this documentation is maintained at the local area or State level or with one State agency or another is up to the State.

The Department has determined that for an AAW to exercise the option between UI and TRA, the worker is required to file for UI benefits, establish a valid claim, and be found eligible to receive UI benefits, if such election is made. It is not enough only to consider potential monetary eligibility. A claimant can be found monetarily eligible, but still not be eligible to receive such UI entitlement consistent with 26 U.S.C. 3304(a)(7). This is a requirement of the Federal Unemployment Tax Act, which requires a worker who has received compensation during a benefit year to have had work since the beginning of such year in order to qualify for compensation in the next benefit year. Accordingly, documentation of this choice is required to eliminate ambiguity and maintain program integrity. The final rule adopts the regulatory language in paragraph (e)(3) of this section into the final rule as proposed, with the exception of a change to the use of a pronoun.

Proposed paragraph (e)(4) of this section provided that if the AAW exercises the election to receive TRA, State law governs what happens to the valid UI claim filed. Proposed paragraph (e)(5) provided that the AAW must have no unexpired waiting period applicable for such worker for any UI, except when collecting TRA.

As a result of the comments received above regarding proposed paragraph (e) of this section and the exhaustion of UI, the Department has edited the regulatory text in proposed paragraph (e)(4) through (e)(6) of this section to simplify the provisions related to UI claims in the second benefit year, the exhaustion of UI, and waiting periods, respectively. Paragraph (e)(5) of this section was newly inserted in this final rule and this resulted in the renumbering of proposed paragraph (e)(5) as paragraph (e)(6) in this section.

Paragraph (f)

Proposed paragraph (f) of this section combined the requirements in 20 CFR 617.11(a)(2)(vi) and 20 CFR 617.17 and reorganized and rephrased the paragraphs containing the specified means for meeting the Extended Benefits (EB) work test requirements in an easier to follow format. In addition, proposed paragraph (f)(2)(ii) of this section provided that the EB work test requirements do not apply during a break in training that does not exceed 30 days. The Department made an edit to the use of a pronoun in paragraph (f).

One commenter asked whether proposed paragraph (f)(2)(ii), which provides an exception to both the ''able and available'' requirement and the EB work test requirement for workers during breaks in training not lasting more than 30 days (per the counting method in § 618.775(b)), means that these requirements do apply if the worker's break lasts longer than 30 days. The comment relates to the application of the EB Work Test.

The EB Work Test is an eligibility requirement for all TRA as provided at § 618.720(f)(1), except as provided at paragraph (f)(2) of this section. An AAW enrolled in TAA approved training, or participating in such training, or on a break from training, does not need to continue meeting the EB Work Test. As provided at § 618.775 (payment of TRA during breaks of training), Basic and Additional TRA are payable during

TAA approved training breaks, not exceeding 30 days. However, Basic and Additional TRA are not payable if the break in such TAA approved training exceeds 30 days.

The AAW can elect to seek employment at all times, consistent with the EB Work Test, but it would have no effect on the payment of TRA during the enrollment or participation in TAA approved training nor during breaks in TAA approved training, whether or not they exceed 30 days. The Department has edited the regulatory text in the final rule at § 618.720(f)(2)(ii) by removing the reference to breaks in training lasting longer than 30 days in order to clarify the relationship between the EB Work Test and breaks in training.

Proposed paragraph (f)(3) of this section contained the definition of ''suitable work.'' The applicable definition depends on an AAW's job prospects as discussed in 20 CFR 615.8(d). For an AAW with job prospects determined to be ''good,'' the applicable definition is that of claimants for regular compensation. Conversely, where a worker's job prospects are ''not good,'' the Federal-State Extended Unemployment Compensation Act of 1970 definition applies, and it considers any work within the worker's capabilities to be suitable.

A State workforce agency agreed with the Department's rationale, expressed in the NPRM, for paragraph (f)(3) applying different job search requirements to AAWs with ''good'' job prospects versus those with ''not good'' job prospects (a determination the State makes under 20 CFR 615.8(d)) but asked for definitions of ''good'' and ''not good.'' The State workforce agency also argued that the differentiation of job search requirements would mean ''considerable changes'' to its State's UI system. The language in the proposed regulatory text is revised in the final rule based on the EB Work Test provisions found at 20 CFR 617.11(a)(2)(vi). A portion of this language was omitted in the proposed rule in error, specifically the reference that registration for work be made consistent with the EB regulations found at 20 CFR part 615. The applicable reference is 20 CFR 615.8(d), which provides an extensive explanation on the classification and determination of job prospects to establish whether they are ''good'' or ''not good.'' The Department revises paragraph (f) in the final rule to include the language that was omitted in error and to provide the proper reference to 20 CFR 615.8(d).

Paragraph (g)

Proposed paragraph (g) of this section followed the participation in training requirement of 20 CFR 617.11(a)(2)(vii). Proposed paragraph (g)(2) provided the Department's position that the participation in training requirement does not apply to an AAW before what is commonly referred to as the 26/26-week deadline for enrollment in training found in section 231(a)(5)(A)(ii) of the Act and incorporated into proposed § 618.725. Thus, an AAW may receive Basic TRA up to the applicable training enrollment deadline in proposed § 618.725 without meeting the participation in training requirement.

One commenter said new paragraph (g)(2) of this section, addressing receipt of TRA prior to the training enrollment deadline, makes the requirements clearly understood. The Department has incorporated the above-mentioned changes to the regulatory text for § 618.725 and otherwise adopts this section into the final rule as proposed.

The Department made an edit to the use of a pronoun in paragraph (g)(3).

Section 618.725 Training Enrollment Deadlines

Proposed § 618.725 did not have a counterpart in the previous regulations at 20 CFR 617, but was administered by States based on administrative guidance. This § 618.725 in the proposed rule set forth the statutory deadlines by which an AAW must be enrolled or participating in approved training, or have a training waiver in effect as a condition for receiving TRA. These deadlines are commonly referred to as the training enrollment deadlines or the ''26/26-week deadlines.''

Proposed paragraphs (a)(1) and (2) of this section implemented the training enrollment deadlines that require an AAW to be enrolled in training or have a waiver granted no later than the last day of the 26th week after either the worker's most recent qualifying separation or the last day of the 26th week in which the certification was issued to receive Basic TRA. This is also what is known as the ''26/26-week deadlines.'' The training enrollment deadlines are established by section 231(a)(5)(A)(ii)(I) and (II) of the Act.

One commenter opposed the establishment of a 26-week deadline to enroll in training in cases of partial separation, saying it would penalize partially separated workers who have not enrolled. The Department reiterates that the deadline in the regulation is a statutory deadline and may not be modified. However, the deadline for a partially separated worker may actually change as a worker with a partial separation under an existing active certification would have 26 weeks from the week in which he or she became partially separated to enroll in (or be waived from) training and, if he or she later experiences a total separation, the enrollment deadline would restart based on the date of the total separation.

Proposed paragraph (a)(3) of this section implemented the deadline in section 231(a)(5)(A)(ii)(III) of the Act that allows an AAW 45 additional days after the later of the training enrollment deadlines described above, if there are extenuating circumstances that justify the extension. The Act does not elaborate on what are extenuating circumstances. Proposed paragraph (a)(3) of this section explained that extenuating circumstances are those that constitute good cause—unusual situations that are beyond the control of the AAW and that make enrollment within the otherwise applicable deadline impossible or unreasonable. Additional discussion of extenuating circumstances and good cause is found in the preamble for proposed § 618.730.

One commenter supported the ''extenuating circumstances'' provision in proposed § 618.725(a)(3) that would extend a worker's eligibility for TRA income supports by extending the training enrollment deadline for 45 days if there is ''good cause.'' The Department appreciates this support and the final rule adopts the regulatory language of this section as proposed.

Section 618.730 Good Cause

Proposed § 618.730 did not have a counterpart in prior regulations at 20 CFR part 617 but was administered by States based on administrative guidance that implements section 234(b) of the Act. In determining whether to apply the good cause exception, States should consider the following: whether the State failed to provide timely notice of the need to act before the deadline passed; whether factors outside the control of the AAW prevented the worker from taking timely action to meet the deadline; whether the worker attempted to seek an extension of time by promptly notifying the State; whether the worker was physically unable to take timely action to meet the deadline; whether the employer warned, instructed, threatened, or coerced the worker in any way that prevented the worker's timely filing of an application for TRA or enrolling in training; whether the State failed to perform its affirmative duty to provide advice reasonably necessary for the protection of the worker's entitlement to TRA; or whether there are other compelling

reasons or circumstances that would prevent a reasonable person from meeting a deadline.

A State workforce agency supported the Department's clarification of the ''good cause'' exception and suggested the flexibility it provides should be expanded to allow for waiver of ''any of time limitations or other requirements'' if the AAW can demonstrate ''good cause'' exists. Through these regulations, the Department codifies four different concepts where exceptions to certain deadlines are appropriate: extenuating circumstances, justifiable cause, good cause, and equitable tolling (§ 618.888). Though similar, they are not interchangeable. States may apply these, as appropriate, for a worker's unique circumstances.

Proposed paragraph (b) of this section provided that for good cause to exist, the AAW must have acted diligently yet been unable to apply for, enroll in, or receive a training waiver within the required time limitations because of exigent circumstances.

Citing a Rutgers University study about the negative effects of prolonged unemployment, a different commenter recommended that the Department revise proposed § 618.730(b) to state explicitly that ''good cause'' encompasses the difficulties workers face that are ''exacerbated by the trauma and stress of unemployment,'' such as financial straits, depleted savings, and emotional strain. The same commenter expressed concern that, without explicit encouragement from the Department to interpret the standard liberally, States would hesitate to apply it in a way that provided workers the most opportunity to access training. The Department is well aware of the difficulties that workers face when unemployed. States are aware of these difficulties as well. However, the Department has decided not to include any specific examples in the regulatory text as there are often too many variables to consider such that providing a definitive opinion in this final rule would be difficult. For technical assistance on the application of these provisions to specific circumstances, States should consult with the appropriate regional office.

The final rule adopts the regulatory language as proposed.

Section 618.735 Waiver of Training Requirement for Basic Trade Readjustment Allowances

Proposed § 618.735 addressed waivers of the training requirement as a condition for receiving Basic TRA. This section permitted States to issue waivers if an AAW was unable to meet the training required and identified the circumstances under which a waiver could be granted.

Paragraph (b)

Proposed paragraph (b) of this section set forth the permissible bases for waiving the training requirement.

One commenter urged the Department to reinstate the more numerous waivers of the training requirement for Basic TRA that existed before the enactment of TGAAA in 2009 and the regulatory changes that followed. A different commenter specifically requested the restoration of the ''marketable skills'' waiver, which allowed workers with in-demand skills to receive extra weeks of TRA beyond the standard UI entitlement by waiving the training requirement. The same commenter expressed concern about what it called the ''underlying unfairness'' of the proposed approach of making TAA-eligible workers with marketable skills look for suitable employment, thereby forfeiting TRA benefits. The categories are statutory, as established in section 231(c)(1)(A) through (C), and the Department does not have the authority to add additional categories; therefore, the final rule adopts the regulatory language regarding the waiver categories as proposed.

One commenter responded to the Department's request for comments by asking that the Department include more descriptive language about the bases of waiver criteria into the regulatory text by inserting the statutory language. The Department has determined this addition is not necessary, and adopted the regulatory descriptions of the waiver conditions as proposed.

Paragraph (c)

Proposed paragraph (c) of this section governed the contents of a waiver and provided that a waiver does not take effect unless it contains, at a minimum, six specific items of information. Proposed paragraph (c) modified the requirements that existed at 20 CFR 617.19(a)(2)(i) through (vii) to account for the statutory change concerning allowable conditions for issuing a waiver.

A State workforce agency questioned the necessity of the requirement in paragraph (c)(1)(vi) of this section that a waiver cannot take effect unless it contains a signature from ''an official of the State authorized to grant the waiver'' and said that the State's approval in the electronic case management system should suffice. The same commenter also asked why such a signature would be needed to waive the training requirement but not to enroll a worker in training. As provided by the Department in proposed subpart H, as well as in this final rule, electronic signatures are allowable, as are scanned signed copies. This would be the same for training approval or approval of other benefits. The Department strongly encourages States to move toward electronic case files and electronic benefit management wherever possible to reduce operational costs and improve efficiency of the provision of TAA Program benefits and services. The final rule adopts the regulatory text in paragraph (c)(1)(vi) of this section as proposed.

Paragraph (f)

The Department made an edit to the use of a pronoun in paragraph (f).

Paragraph (g)

Proposed paragraph (g) of this section revised 20 CFR 617.19(c) and implemented section 231(c)(2)(B) of the Act, by requiring that a waiver be revoked if the waiver criteria are no longer met and that the AAW be notified in writing of the revocation. Omitted from the regulation in proposed paragraph (g) of this section were two provisions from 20 CFR 617.19(c)(2) and (3) that did not impose substantive requirements.

One commenter, citing the preamble discussion about paragraph (g) and the Department's explanation that it dropped two provisions from 20 CFR 617.19(c)(2) and (3), stated its understanding of the removed provisions as follows: if the waiver is revoked because a worker enrolls in training, then the State simply revokes the waiver on the waiver form and does not need to send the worker a written notice of revocation outlining the worker's appeal rights, but if the waiver is revoked for any other reason, then the State sends the worker a notice of appeal rights. The same commenter said that if its understanding of these provisions is correct, then it would support taking that approach. Similarly, another commenter said that changing the status quo, in which revocation that occurs because ''training is feasible and appropriate'' does not result in written notice since the AAW simply begins training, could be confusing to workers and disrupt service delivery. This commenter asked for clarification about whether, under the proposed approach, all revocations must be issued as written notices and treated as appealable determinations. Waivers must be revoked, in accordance with section 231(c)(2)(B), when the conditions that led to the issuance of such waiver are no longer in effect. If during the

periodic review of the waiver, it is discovered that reason(s) for such waiver are no longer applicable, the waiver must be revoked and the AAW must meet the requirements of § 618.725(a)(5). This would include when an AAW enrolls in approved training. States must issue determinations on revocations and provide appeal rights consistent with §§ 618.820 and 618.828. The final rule adopts the regulatory language in paragraph (g) of this section as proposed.

The Department is finalizing this section into the final rule as proposed.

Section 618.740 Evidence of Qualification for Basic, Additional, and Completion Trade Readjustment Allowances

Proposed § 618.740 was modeled after 20 CFR 617.12 and provided the requirements for evidence of qualification for Basic, Additional, and Completion TRA. Proposed paragraph (a) of this section was substantially the same as 20 CFR 617.12(a) and contained the requirement that States obtain the basic information necessary to establish whether a TRA applicant is eligible to receive TRA.

A State workforce agency interpreted the Department's overview of § 618.740 in the NPRM preamble as meaning that a State does not need an application to determine TAA Program eligibility if, based on the worker list it receives from the employer, it has enough information to assess a worker's eligibility for benefits. The State workforce agency asked the Department for confirmation that the State does not need to require workers to apply if the information from the employer provides sufficient grounds on which to base an eligibility determination as to the TAA Program and TRA. The Department explains that if the worker list provides sufficient information for the State to determine that a trade-affected worker was separated for lack of work as a member of the worker group, then no additional information is required to render a general determination on overall TAA Program eligibility, allowing a worker to receive employment and case management services. Benefits and services such as training and TRA have other eligibility requirements that must be met, however.

Further, the worker list initiates the process by which the State contacts the trade-affected workers advising them of the availability of benefits. All members of the certified worker group must be provided notification of their potential eligibility. The State must request the firm to provide a list of workers who have experienced a separation or are threatened with separation from employment from the certification's impact date through its expiration date, as soon as the certification is issued and throughout the certification period. The information provided by the firm is then used to advise workers of the potential TAA Program eligibility. If there is a conflict between the information provided by the firm and information provided by a worker, additional fact finding is necessary from both parties.

It is important for States to ensure that firms provide a list of all separations regardless of the reason for the separation. This avoids situations in which the firm only submits to the State workers who the firm believes had a lack of work separation. Otherwise, some workers considered by the firm as not experiencing a lack of work separation may be left off the list when in fact they should have been included, resulting in unnecessary delays for receipt of benefits and services for such workers. States also must work with the firm to identify workers who are individually threatened with separation. The worker list provides valuable information that is used by the State as a basis for issuing determinations of program entitlement. The State is the responsible party and the final authority issuing individual determinations as to which workers had a lack of work. Once this action occurs, the workers are considered to be an AAW or an AAIW. The Department made a nonsubstantive edit in paragraph (a) of this section to correct a cross-reference to the section heading of a different section; otherwise, the final rule adopts this section as proposed.

Section 618.745 Weekly Amounts of Basic, Additional, and Completion Trade Readjustment Allowances

Proposed § 618.745 governed the determination of an AAW's weekly amount of TRA, whether Basic, Additional, or Completion. This proposed section only impacts TRA benefits, not UI. The Department received no comments relating to proposed § 618.745 and therefore the final rule adopts the section as proposed, with the exception of edits to the use of pronouns in paragraphs (b) and (c).

Section 618.750 Maximum Amount of Basic Trade Readjustment Allowances

Proposed § 618.750 explained how to calculate the maximum amount of Basic TRA. It was derived from previous regulations at 20 CFR 617.14, with a few substantive and organizational differences. The proposal defined the maximum amount of Basic TRA payable to an AAW as the product of 52 multiplied by the TRA weekly amount for a week of total unemployment, calculated under proposed § 618.745(a) (weekly amounts of TRA), reduced by the total sum of UI (except State-funded additional compensation) that the AAW was entitled to or would have been entitled to had the worker applied in such worker's first benefit period. As proposed in paragraph (b), this does not include any supplemental payments for dependent allowances. One change from previous regulations concerned the reduction for the total sum of the AAW's UI entitlement. Paragraph (a)(2) of 20 CFR 617.14 provided that a worker's UI reduction must include, in addition to any UI to which the worker was entitled, any UI to which the worker would have been entitled had the worker applied for it during the worker's first benefit period. The last sentence of that paragraph added that in calculating the worker's maximum TRA amount, the worker's full UI entitlement for the first benefit period must be subtracted, regardless of the amount, if any, actually paid to the worker. This provision created an unintended result for AAWs who during the first UI benefit period exhausted regular compensation, became eligible for EB under 20 CFR part 615 and, while continuously unemployed, could not receive the full EB entitlement because, prior to EB exhaustion, the EB period triggered ''off'' such that no further EB benefits were payable in the State. While the statutory and regulatory language implies that the full entitlement must be reduced, the AAW could not have filed and received such benefits. Accordingly, the Department's revised position was that if, and only if, the benefit was available to the AAW, it must be reduced.

One commenter requested clarification about the provision in § 618.750(a) concerning the reduction in the maximum amount of Basic TRA payable based on workers forgoing a UI benefit to which they were entitled. The same commenter asked whether a worker who elects to wait until filing would be ''out those two weeks.'' The Department explains that the regulatory citation tracks the statute at section 233(a)(1) of the Act. This requires that the full UI entitlement during the first benefit period is reduced, independent of the actual receipt, to establish the maximum Basic TRA payable. For purposes of this calculation, UI includes regular compensation, EB, and Federal supplemental compensation. Accordingly, if the AAW was entitled to

compensation and had a balance in such compensation, such compensation must be reduced from the maximum Basic TRA payable, independent of the reasons the AAW could not receive such compensation. The final rule adopts the regulatory text as proposed.

Section 618.755 Eligibility Period for Basic Trade Readjustment Allowances

Proposed § 618.755 established the Basic TRA eligibility period. The Department did not receive any comments on this section. The final rule adopts the regulatory text as proposed, with a technical correction that removes an erroneous reference to § 618.755(c), a nonexistent regulatory provision.

Section 618.760 Qualifying Requirements for, and Timing and Duration of, Additional Trade Readjustment Allowances

Proposed § 618.760, establishing the qualifying requirements for, and duration of, Additional TRA, had no specific counterpart in 20 CFR part 617; however, most of the provisions in § 618.760 were contained in various sections of the prior regulations at 20 CFR part 617 and had been updated through administrative guidance over time. The Department is finalizing this section as proposed, except for the changes described herein.

Proposed paragraph (a) of this section contained Additional TRA qualifying requirements and was largely unchanged from 20 CFR 617.11(a)(2) (TRA qualifying requirements), 20 CFR 617.15(b)(2) (training application filing deadlines), and 20 CFR 617.15(b)(3) (requirement of participation in training except during breaks in training). Proposed paragraph (a)(2) of this section specified that the AAW must have exhausted Basic TRA before establishing eligibility for Additional TRA.

One LWDB understood proposed § 618.760(a)(2) as meaning that a worker who has reached 104 weeks of Basic TRA eligibility without exhausting that benefit is not eligible to receive Additional TRA, even after receipt of EB or supplemental compensation, and asked the Department whether that was the provision's intent. The provision to require exhaustion of Basic TRA was included in the proposed rule to clarify that Additional TRA is not a permissible alternative to Basic TRA for an AAW who missed the training enrollment deadlines in § 618.725 and who lacks good cause for failure to meet such deadlines. However, upon further review of the Act as a result of this comment, the Department concludes that there is no statutory basis to establish this provision in the regulations. Proposed § 618.760(a)(2), therefore, has been removed from the regulatory text in the final rule, and proposed paragraph (a)(3) has been redesignated as final paragraph (a)(2) to reflect the deletion of proposed paragraph (a)(2).

Section 618.765 Qualifying Requirements for, and Timing and Duration of, Completion Trade Readjustment Allowances

Proposed § 618.765 provided the qualifying requirements for, and duration of, Completion TRA. This section codified section 233(f) of the Act, and provisions in administrative guidance implementing the statute, and resolved policy issues arising from the implementation.

Proposed paragraph (c) of this section explained that the Department determined that the eligibility period for Completion TRA will be the 20-week consecutive calendar period beginning with the first week in which an AAW files a claim for Completion TRA and seeks compensation for such week, regardless of when the first payment is received. The eligibility period may be extended for justifiable cause in accordance with proposed § 618.770(a).

A commenter asked whether modification of a training contract during the eligibility period, while there is Completion TRA eligibility remaining, resulting in training continuing after the eligibility period, would be deemed ''justifiable cause'' for extending the eligibility period under § 618.765(c). Before any determination can be made on whether or not to apply justifiable cause, fact-finding must occur. The Department encourages States to work with their appropriate regional office to address specific cases as they arise. The final rule adopts the regulatory text as proposed.

Section 618.775 Payment of Trade Readjustment Allowances During Breaks in Training

Proposed § 618.775, governing payment of TRA, whether Basic or Additional, during breaks in training, was substantially the same as 20 CFR 617.15(d) except that, as the result of a statutory change to section 233(e) of the Act, it extended the maximum number of days a break may last without interrupting TRA payments from 14 days to 30 days. Proposed paragraph (b) of this section provided a basis for counting days similar to 20 CFR 617.15(d).

One commenter recommended that the Department add language to paragraph (b) of this section, which explains what days count toward the 30-day maximum, to account for workers enrolled in training that mostly occurs on weekends, which the commenter said is true of some technical certification courses. To illustrate this point, the commenter provided an example of two workers, where one has classes that meet primarily on weekends, while the other has classes that meet only on weekdays. In the commenter's example, while the two workers may experience a break at the same time, because weekends do count toward the weekend student's total, but do not count toward the weekday student's total, the break is treated as shorter for the weekday student than it is for the weekend student. The commenter asked for clarification about how many days following the worker's return to training must pass before the worker can have another break and still remain eligible for TRA benefits. The commenter described an example in which the worker takes a course lasting 1 or 2 days in between two breaks in training and asked whether this would ''reset'' the count for the 30-day limit. The commenter also requested clarification about how this provision applies to distance learning programs with no set class schedule, namely whether weekends and holidays would be excluded for such programs. The Department appreciates the commenter's concerns, but there are too many unknowns and additional information would be needed in order to provide an informed response. The commenter is encouraged to contact its appropriate regional office for technical assistance on individual case scenarios. The Department is finalizing this section in the final rule as proposed, with the exception of a subject-verb agreement edit in paragraph (c).

Section 618.780 Disqualifications

Proposed § 618.780, governing disqualifications from receiving TRA, was structured the same as 20 CFR 617.18. Proposed paragraph (d) of this section, prohibiting payment of TRA to an AAW for any week during which the worker is receiving part-time training, did not have a comparable section in 20 CFR part 617, as it was a new statutory requirement in section 236(g) of the Act, which had been implemented provisionally via administrative guidance.

One commenter requested clarification about the correct interpretation of paragraph (d) of § 618.780, concerning disqualification from receiving TRA for any weeks in which a worker participates in part-time training, which states that part-time training is any training not meeting the

definition of ''full-time training'' in § 618.110. The same commenter quoted the definition in § 618.110 of ''full-time training,'' which provides in paragraph (2) of the definition that students in their last semester of training will be considered in full-time training, even if their courses do not meet the training provider's definition of full-time, if those courses are the only training or coursework required to finish the training. The commenter asked the Department to confirm that a State does not need to obtain additional documentation from a training provider in order to pay TRA for a worker's last semester of training. A different commenter said the proposed rule did not include language extending eligibility for TRA to workers in part-time training during their last semester who are scheduled to graduate and only need that semester's courses to complete their requirements. States should ensure that courses taken in the last semester of the AAW's approved training program are the only classes or coursework needed to complete training, and if they are less than full-time, that should be documented in the worker's case file. The Department also refers the commenters to the definition of full-time training at § 618.110, where the final semester of training is specifically addressed. The Department made a nonsubstantive edit in paragraph (a) of this section to correct a cross-reference to the section heading of a different section; otherwise, the final rule adopts this section as proposed.

H. Subpart H—Administration by Applicable State Agencies

Subpart H governs the administrative requirements and rules that States must follow in delivering TAA Program benefits and services. Subpart H mirrors subpart G of 20 CFR part 617 with a few exceptions. These exceptions include organizing sections differently for improved clarity; revising provisions to reflect recent statutory amendments and policy determinations; and adding new sections to address requirements for veterans' priority of service, general fiscal and administrative requirements, and TAA Program performance. Subpart H also excludes some provisions that are contained in subpart G of 20 CFR part 617 because they are based on expired laws. Other major changes cover topics such as merit staffing requirements; actions the Department may take in the absence of an executed Governor-Secretary Agreement; State submissions of administrative rulings and waivers of training; veterans' priority of service requirements; program performance requirements; and overpayment requirements and instructions.

There were no comments received on proposed §§ 618.800, 618.820, 618.828, 618.836, 618.840, 618.844, 618.848, 618.856, 618.868, 618.872, 618.884, 618.894, and 618.898. Accordingly, the final rule implements these sections as proposed, except for an edit to subject-verb agreement in § 618.820.

Section 618.804 Agreements With the Secretary of Labor

Section 618.804 of the NPRM set forth the statutory requirement at section 239 of the Act that agreements between the States and the Secretary (known as Governor-Secretary Agreements) are required before a State may deliver TAA Program benefits and services. Proposed § 618.804 followed 20 CFR 617.59, but reordered the provisions and edited them for clarity. The final rule adopts § 618.804 as proposed, except for a nonsubstantive technical edit correcting the capitalization of ''agreement'' to ''Agreement.''

A commenter supported continuing services even while the Department is in the process of amending Governor-Secretary Agreements. The Department has never ordered States to cease program operations while executing updated Agreements.

Paragraph (h)

The Department received one comment related to proposed paragraph (h) of this section. Proposed NPRM paragraph (h) provided a nonexhaustive list of mandatory terms for Governor-Secretary Agreements between the Secretary and States, including provisions establishing TAA Program funds as the primary source of Federal assistance to trade-affected workers (proposed paragraph (h)(4)).

A State workforce agency recommended revising § 618.804(h)(4) to state explicitly that the costs for services post certification ''must'' (rather than ''should'') shift from WIOA and other programs to the TAA Program and to provide a reference to § 618.615(c) as the basis for this requirement. The services required to be provided to petitioners, prior to a petition determination, are funded from WIOA. These are the rapid response services and appropriate career services required by section 221(a)(2)(A) of the Act. The Department recognizes that there may be administrative reasons, from time to time, where allowing WIOA to continue providing these services after a certification as been issued utilizing WIOA funding is preferred. The final rule adopts § 618.804(h)(4) as proposed.

The Department made a nonsubstantive edit to correct a cross-reference in paragraph (h)(2) of this section, including correcting the section heading of the section cited; otherwise, the final rule adopts this section as proposed.

Section 618.808 State Rulemaking

Section 618.808 proposed a modification from 20 CFR 617.54 and divided the section into paragraphs. This proposed section provided States with the authority and flexibility to establish laws, regulations, procedures, or other policies related to the administration of the TAA Program that are not inconsistent with Federal law or these regulations while ensuring the Department can still administer the uniform interpretation of the program throughout the United States. Proposed paragraph (a) reworded 20 CFR 617.54 and replaced the generic term ''supplemental procedures'' with specific references to the establishment of laws, regulations, procedures, or other policies not inconsistent with the Act, this part 618, or administrative guidance issued by the Department. Proposed paragraph (b) retained the requirement in 20 CFR 617.54 that certified copies of the proposed law, regulation, procedure, or other policy be provided to the Department, but removed the requirement for them to be submitted on a form supplied by the Department to accommodate the improvements in technology that make this process much easier. Proposed paragraph (c) was unchanged from 20 CFR 617.54 and required that all laws, regulations, procedures, or policies by the States be reviewed and approved by the Department before taking effect. It also authorized temporary approval by the Department, in cases of administrative necessity, for a period not to exceed 90 days. Proposed paragraph (d) allowed the Department, after providing the State notice of at least 30 days, to withdraw a previous approval. Proposed paragraph (e) differed from 20 CFR 617.54 and required States to follow State UI law requirements for public notice and opportunity for hearings on rulemaking. Proposed paragraph (e) more broadly also required the State to follow any other State or Federal law that may require such public notice and opportunity for hearing.

Two State workforce agencies asked how the Department would approve State rulemakings and asked for more clarity as to whether revisions to State regulations would require Departmental

approval, expressing concern that Departmental review could hinder TAA Program operations. The Department would like to reiterate that this provision regarding State rulemaking is in the previous regulations at 20 CFR part 617. This process is not as formal as grant modifications and the process should not be overly complicated or formal. States are directed to submit the information to their TAA Program contact at the regional office. The regional office will work with the Office of Trade Adjustment Assistance (OTAA) to review the information and provide a response to the States. This process can occur entirely by email. Only in rare circumstances have State rules required significant discussion within the Department. In general, the regional office and OTAA are able to provide a response to the majority of submissions made by States in a very reasonable amount of time. Stand-alone forms are not required to be submitted to the Department, although States are encouraged to follow the same process to receive feedback on any TAA Program-specific forms to ensure that they do not contain policy issues. The final rule adopts this section as proposed.

Section 618.812 Subpoenas

Section 618.812 of the proposed rule, authorizing States to issue and enforce subpoenas, was substantially the same as 20 CFR 617.53.

One commenter wrote that States might benefit from using subpoenas to obtain lists of workers from employers. The Department clarifies that States have always had this authority, although, until this final rule, it has been implied rather than express. The Department agrees that the explicit inclusion of this authority at paragraph (b) will improve the timeliness with which this information is provided by firms to the States. The final rule adopts this section as proposed.

Section 618.816 Trade Adjustment Assistance Program Benefit Information and Provision of Services to Workers

Proposed § 618.816 contained requirements the States must meet in providing TAA Program benefit information and services to trade-affected workers. The Department has revised the regulatory text in paragraph (e)(4) as discussed below and has made a nonsubstantive edit to correct a cross-reference to § 618.725 in paragraph (e)(2)(vi) of this section; otherwise, the final rule adopts the section as proposed.

Section 618.816(a)

Proposed paragraph (a) required States to provide general program information and advice to trade-affected workers, which was very similar to 20 CFR 617.4(a), and contained only minor language changes. This requirement derives from the obligation in section 225(a) of the Act to provide information to trade-affected workers about the benefits and services available to workers and their associated applications and timelines. The information provided to workers must cover all benefits and services available under the TAA Program, including the HCTC, if available.

Two State workforce agencies requested clarification regarding the requirement that States must provide information about TAA Program benefits, application procedures, and filing dates to workers applying for UI. Specifically, the State workforce agencies asked about timing (*i.e.,* pre- or post-certification), arguing that providing such workers with too much information pre-certification could confuse them because the petition for certification may fail or the certification may not cover all of the workers (*e.g.,* because they quit or were terminated). One of the States added that this requirement also could increase the risk of services being approved for those workers who were ineligible to receive such benefits. The Department clarifies that this is not a new requirement. It is also a statutory requirement, established at section 239(g)(1) of the Act. Most States meet this requirement with a statement on the web-based system used for UI claims or in the initial meeting or initial correspondence to new UI claimants. No changes have been made to proposed paragraph (a) and the final rule adopts the regulatory text as proposed.

Section 618.816(b)

In the NPRM, the Department proposed § 618.816(b) based on section 221(a)(2)(A) of the Act, which required States to ensure rapid response assistance and appropriate career services are made available, consistent with section 134 of WIOA, to all groups of workers covered by a petition filed under subpart B.

One commenter expressed several concerns about the new requirement for States to provide rapid response assistance and appropriate career services, consistent with WIOA section 134, to all groups of workers covered by a petition filed under subpart B. The commenter's concerns included the potential for the provision of services to workers whose petitions do not result in certification or to workers incorrectly identified in a petition (*e.g.,* providing services to the entire company where only one subdivision of the company is the ''firm'' covered by the certification), as well as the potential for employers to become ''disenchanted'' with States that alarm and serve workers whose employment is not actually threatened. The same commenter suggested that the Department should amend the provision to require that States first investigate whether layoffs of workers in the group of workers are likely or have happened and, if they can reasonably determine that the petition is likely to be certified, then reach out to the impacted workers. The Department points out that this is not a new requirement. It is also a longstanding statutory requirement, found at section 221(a)(2)(A) of the Act. The requirement to provide rapid response and appropriate WIOA career services is statutory. The Department cannot reduce or qualify this requirement via regulations.

One commenter expressed concern that, without corresponding updates to the WIOA regulations, these proposed regulations will not be implemented correctly by WIOA Program staff. The States, under the Governor-Secretary Agreement, are bound to the implementation of these rules. The Governor-Secretary Agreement binds the entire executive branch of State governments to the terms and conditions of the Agreement and the implementation of the TAA Program. This includes the implementation of the rapid response requirement.

Section 618.816(e)(1) Through (3) and (5)

Proposed paragraph (e) required States to provide certain information and assistance to trade-affected workers after issuance of a certification covering their worker group. Proposed paragraph (e)(1), which was previously in 20 CFR 617.4(c), implemented section 225(a) of the Act and required States to inform the State board on vocational and technical education or equivalent agency, and other public or private agencies, institutions, and employers, as appropriate, of each certification issued under subpart B and of projections, if available, of the needs for training under subpart F as a result of such certification. Proposed paragraph (e)(3) provided that it is permissible to obtain a list of workers that are partially or totally separated from adversely affected employment or threatened with separation via subpoena pursuant to proposed § 618.812. Proposed paragraph (e)(5) codified section 239(f) of the Act

and required that upon receipt of a copy of a certification issued by the Department, the State must perform outreach to, intake of, and orientation for trade-affected workers covered by the certification with respect to assistance and benefits available under this part 618. There is no direct similar provision in the previous rule.

Two State workforce agencies expressed concern about the practicality of the requirement in paragraph (e)(1) regarding the provision of benefit information post-certification to a variety of potentially interested parties. Specifically, one of the State workforce agencies said it would be administratively burdensome to effect such notice and maintained that States have ''no way'' to forecast a worker group's training needs. The Department maintains that this requirement is best met through regular contact with State, local, and regional workforce development boards. Coordination with rapid response also will help in determining the training needs of worker groups and the demand in the local labor market. States also can use their own data to produce projections based on similar trade-affected workers already enrolled in the program or previously enrolled in the program. States are encouraged to contact the regional office for additional assistance in meeting this requirement. The final rule adopts the regulatory text as proposed.

One commenter expressed its understanding that the requirement in paragraph (e)(2) concerning notice to potential AAIWs means written notice, as required earlier in the same paragraph concerning notice to covered workers. The Department affirms that AAIWs must be provided a written notice.

With respect to paragraph (e)(2)(i), the same commenter recommended that the contents of the notice should include background information about the TAA Program in plain language to provide recipients with context for why they are receiving the notice. The Department agrees that plain language is always preferred whenever possible but has elected to allow States the flexibility to customize the overall content of the notice.

An LWDB suggested revising the requirement in paragraph (e)(3) to require firms to provide States with workers' contact information at the time the petition is filed, rather than when a certification has been issued. The LWDB maintained that this revision would align the requirement better with the new requirement in paragraph (b) regarding rapid response activities and appropriate career services, which applies at the petition stage. A different commenter recommended that if the Department obtains workers' contact information in the course of its investigations, then it could share that information with the States, and the States could confirm with the firms that the information is still current. The same commenter said this approach would show the partnership between the Department and States when it comes to program administration. The Department does not request a worker list as part of its investigation because it is not needed for a determination to be made. The Department will, in its communication with firms during investigations, make them aware that such a list will need to be provided to the State if the petition is certified.

One commenter requested clarification of the terms ''intake'' and ''orientation'' as used in paragraph (e)(5). The same commenter said that different States interpret these terms differently. The Department concludes that the language in the preamble to the proposed rule, this preamble, and subpart C of this final rule is sufficient to address this concern and establish a standard to be met by all States.

Section 618.816(e)(4)

Proposed paragraph (e)(4) maintained the requirement from 20 CFR 617.4(d)(2)(i) that notice of certification be published in a newspaper of general circulation.

Two State workforce agencies and a State government employee called the proposed requirement for States to publish notice of certification via newspaper ''antiquated'' and recommended making it optional by changing the word ''must'' to ''may'' in the first sentence of paragraph (e)(4). A different State workforce agency suggested that the Department should revert to the previous requirement in 20 CFR 617.4(d)(2), which mandated newspaper notices only if the State could not substantiate that all workers covered by the certification have received written notice through the mail. The State workforce agency also said that placing legal notices in newspapers is ''not cheap'' and expressed concern that requiring such publication would waste both staff time and program funds for a method of communication that, in the commenter's words, is ''undoubtedly ineffective'' as a way of reaching covered workers. A different State workforce agency also opposed the requirement, saying that many parts of the country do not have newspapers anymore and, where available, subscriptions can be costly. The same State workforce agency added that for States with a high number of petitions, the requirement could impose time and cost burdens. The State recommended the Department give States flexibility around how to provide this notice, such as through public service announcements or electronic methods (*e.g.,* LWDB websites), by accepting alternative means of notification in place of newspaper notices. Another State workforce agency asked the Department to keep the exemption from 20 CFR 617.4(d)(2), stating that it expected the proposed approach to increase program costs. The State workforce agency added that newspapers are increasingly not the most effective means of notification because many people consume news online, often from outlets not based in their area, and selectively view the content. One commenter responded to the Department's request for comments related to the definition of ''newspaper of general circulation.'' The same commenter said that it defines a newspaper of general circulation as a combination of print and digital newspapers and public service announcements. The Department specifically requested comments on the requirement that notice of certifications be provided in a newspaper of general circulation and appreciates the responses. Many commenters responded that newspaper notices were an ''antiquated'' and costly method to notify workers of certifications. The requirement that a notice be published in a newspaper of general circulation is a statutory provision at section 225(b)(2) of the Act, so the Department may not change the requirement. However, after review the Department has concluded that notice may alternatively be placed in the online or digital version of a newspaper if it can be reasonably expected to reach the interested parties. The proposed regulatory text has been revised in the final rule to include this option.

Section 618.816(e)(6)

Proposed paragraph (e)(6) required, in addition to the written notices sent by mail, that States also use one method of modern electronic communication, such as email, to inform trade-affected workers of the certification.

Multiple commenters expressed concern about the practicality of the requirement that States, in addition to providing mailed written notice to workers covered by a certification of the benefits available to them, must provide electronic notice (*e.g.,* text or email) to the workers. Several of the commenters recommended making this extra step

optional rather than required. One commenter requested clarification on whether the requirement could be met through communications on social media. Another commenter said that the requirement does not appear to include a mechanism for States to require that firms provide workers' mobile phone numbers or email addresses to them, such as the subpoena power in proposed § 618.812 by which States may obtain workers' names and mailing addresses. The same commenter also said that firms may not collect this information from their workers and some workers may not use mobile phones or email. Similarly, a different commenter stated that use of electronic communications is not universal among workers, and it expressed concern that the requirement would discriminate against those workers, such as older or lower skilled workers, who are not as ''technology savvy'' as others, such as younger or higher skilled workers. Another commenter said the requirement could result in ''burdensome cost'' for workers who have mobile phones but do not have unlimited messaging or data plans. The same commenter also raised the potential for this requirement to result in misdirected messages containing personal information for those workers who share electronic accounts. In contrast, a State workforce agency agreed with the requirement, saying it supported efforts to improve notification, promote experimentation with potentially more effective methods of engagement, and encourage a more technological and data-driven approach to program administration. The Department clarifies that the rule, as written, gives examples of alternative contact methods, including through an email or text message if the contact information is known. If the State does not have an email address or mobile phone number of the trade-affected worker, then other methods of electronic communication, including postings made to social media or a website, would satisfy this requirement. States must safeguard any personal data and ensure costs are reasonable.

One commenter also questioned how a State would document its electronic communications in the worker's file and asked whether it would require printing out all emails or texts sent to the worker. The Department clarifies that there is no requirement that a State print out emails or texts; case notes are often sufficient for documenting these activities. The State must comply with record retention requirements in the Uniform Guidance at 2 CFR part 200.

Section 618.816(f)(1)

Proposed paragraph (f) required States to provide specific benefit assistance to trade-affected workers. In addition to all of the benefits described in detail in this part 618, States must also include information on the HCTC, if available, as described in section 35(b)(1)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 35(b)(1)(B)). Proposed paragraph (f)(1) was modeled on 20 CFR 617.4(e)(1) but was rephrased for clarity. One minor change from 20 CFR 617.4(e)(1) is that proposed paragraph (f)(1) omitted the reference to UI claimants because it might be confusing.

One commenter argued that, because not all trade-affected workers will want to be advised of what benefits are available and how to apply, it may be more ''realistic'' to instead require States to provide workers an opportunity to receive this information, similar to how proposed paragraph (f)(2) of this section addressed the possibility that a worker will decline an intake interview. The statute requires not only that all trade-affected workers be notified of the benefits and services available under the TAA Program, but that all UI claimants in the State be made aware of these benefits. Neither of these is a new requirement established by the final rule and both are required by statute. The final rule adopts the regulatory text as proposed, with edits to the use of pronouns in paragraphs (f)(1) and (2).

Section 618.824 Liable State and Agent State Responsibilities

Proposed § 618.824, concerning the respective responsibilities of a liable State and agent States, updated 20 CFR 617.26 to reflect sections 235, 237, 238, and 245 of the Act and reorganized the requirements.

Proposed paragraph (a) was largely unchanged from 20 CFR 617.26(a) but reordered information and divided it up into subordinate paragraphs. Proposed paragraph (a)(3)(i) added the requirement for liable States to provide rapid response and appropriate career services (as described in section 134 of WIOA) to a group of workers for whom a petition is filed as required by section 221(a)(2)(A) of the Act. Proposed paragraph (a)(3)(ii) was new and provided that career services established under other Federal laws must also be made available to the group of workers, to the extent authorized by those laws. Proposed paragraph (a)(3)(iii) was new and had no comparable counterpart in existing regulations or in administrative guidance. It clarified for the first time that, in some instances, the liable State may seek assistance from one or more agent States in the provision of rapid response and appropriate career services, especially in situations where residency of the group of workers is divided into two or more States. Proposed paragraph (a)(4) updated language from 20 CFR 617.26(a) but has the same meaning.

Proposed § 618.824(b) was largely unchanged from 20 CFR 617.26(b) but reordered information and divided it up into subordinate paragraphs. Proposed paragraph (b)(7) was new and established that the agent State is responsible for the payment of job search and relocation benefits.

One commenter agreed with the intent but questioned the enforceability of paragraphs (a)(3)(i) and (ii) of this section, which require a liable State to provide workers covered by a petition with rapid response assistance and appropriate career services, including career services authorized under non-TAA Program Federal laws (*e.g.,* WIOA). The requirement to provide rapid response and appropriate career services was established directly by WIOA section 512(hh). This is also enforceable under the Agreement executed between the Governor and the Secretary.

A State workforce agency said that the requirement in paragraph (a)(5) that a liable State must provide the IRS a list of eligible TAA Program recipients and eligible RTAA recipients for HCTC purposes would mean changing their reporting or data systems to make such information available. The State workforce agency commented that at present it provides the IRS a list of only those workers eligible for the TAA Program who have received RTAA, TRA, or UI payments. The Department explains that HCTC is a tax credit managed by the IRS, the details of which are not covered by this rule. The Department directs States to administrative guidance related to the HCTC, which provides explicit process-related reporting instructions. The Department encourages the commenter to contact the appropriate regional office for additional technical assistance.

Two commenters raised concerns about paragraph (b)(7) of this section, which establishes responsibility for payment of job search and relocation allowances with the agent State. One of the commenters asserted that involving the agent State could unnecessarily complicate the administration of these benefits. The other commenter said that sometimes workers request the allowances before departing the liable State. The commenter requested clarification about how States should respond in such cases. The Department

clarifies that there is only an agent State, other than the liable State, if the AAW has accessed services outside of the worker's liable State. No agent State exists if the worker is simply seeking to travel to another State under a job search allowance or is relocating to another State. Until such time as the worker seeks services in another State, the liable State is both the liable and agent State. The Department made nonsubstantive edits in paragraph (a)(4) of this section to correct two cross-references to the section headings of different sections; otherwise, the final rule adopts the section as proposed.

Section 618.832 Overpayments; Penalties for Fraud

Section 618.832 of the proposed rule, concerning overpayments, fraud, and penalties for fraud, generally repeated 20 CFR 617.55, but reorganized the section for clarity.

Proposed § 618.832(a)(3) provided that trade-affected workers be provided a reasonable opportunity to demonstrate that they were without fault and unable to repay their TAA Program overpayments and, therefore, a ''financial hardship'' exists if recovery of an overpayment would result in a person's (or their household's) loss of or inability to pay for ordinary and necessary living expenses.

Proposed § 618.832(e) discussed the State's responsibilities to recover overpayments.

A commenter wrote that the provisions on overpayments should align with those found in State and Federal UI laws. The same commenter added that the proposed overpayment rules could lead to more confusion and appeals. A different commenter said States should establish policies to ensure that program participants receive certificates from their training and should define financial hardship through their own policies. Another commenter stated that imposing a national standard for financial hardship is problematic, but recommended using standards for ''hardship to repay,'' such as the IRS Collection Financial Standards. One commenter wrote that their State lacks a mechanism for retrieving training overpayments. Another commenter asked if States are required to collect overpayments. The Department explains that the requirement for States to collect overpayments is not a new one. The language used in this rule is based on the statute and previous regulations at 20 CFR 617.55(c). Overpayments for training, RTAA, supplemental assistance, etc. are subject to the same requirements as TRA overpayments. The Department will provide training and technical assistance on this topic, but the final rule adopts the regulatory text as proposed, except for edits to the use of pronouns in paragraph (a).

Proposed paragraph (b) was substantially the same as 20 CFR 617.55(b), but reordered and slightly reworded the language. It provided the statutory requirement for a lifetime disqualification from receipt of benefits under the Act for anyone found to have knowingly provided a false representation or nondisclosure of material fact.

A few commenters wrote that this approach in paragraph (b) of permanent ineligibility for benefits as a result of fraudulent receipt of program benefits is overly aggressive as it would exacerbate the economic harm suffered by workers. Another commenter agreed and recommended that punishments for fraud be incrementally more severe, based on the number of violations committed. The Department clarifies that where fraud was committed in relation to the TAA Program, section 243 of the Act is clear that the trade-affected worker is no longer eligible for payments under the TAA Program. The Department explains that the lifetime ban on TAA Program benefits in the statute and in 20 CFR 618.832(b) is only related to fraud committed under the Act, not other instances of fraud under other State or Federal statutes. This is a statutory requirement, and the final rule adopts the regulatory text as proposed.

Proposed § 618.832(d) provided that when a trade-affected worker fails to complete a TAA Program approved training, job search, or relocation with good cause, any TAA Program payment or portion of a payment to such worker is not an overpayment. One commenter wrote that States should have policies in place to define ''good cause'' for failure to complete a training, job search, or relocation. The same commenter requested that the Department provide examples of failed RTAA activities. The Department explains that in most States, the determination of good cause is determined through case law and previous adjudications under applicable State law. With regard to failed RTAA activities, the Department provides examples such as the failure to provide the State with pay stubs or other required documentation to support continued eligibility and to ensure proper benefit payments. The Department adopts the regulatory text in this section in the final rule as proposed, except for a technical change to the language at § 618.832(h)(1)(i) where the Department changed the words ''an agreement'' to ''a Governor-Secretary Agreement'' for added specificity.

Section 618.852 Recordkeeping and Disclosure of Information Requirements

Proposed § 618.852 repeated the requirements in 20 CFR 617.57 concerning recordkeeping and disclosure of information but made a few changes.

Proposed paragraph (a) was very similar to 20 CFR 617.57(a), with two changes. First, proposed paragraph (a) omitted a reference to reporting form ETA 563. This particular report is no longer required. Rather, required reporting will be governed by § 618.864 of the final rule. Second, proposed paragraph (a) added that States are required to maintain records that contain any information the Department determines to be appropriate in support of any reports the Department may require, including the reports specified in proposed §§ 618.860(f) and 618.864(e). Paragraph (a) also contained a cross-reference to the record retention requirements of the Uniform Guidance at 2 CFR 200.333. Per the Uniform Guidance, States are required to retain records, in general, for 3 years after the last action taken on that record (determination, appeal, payment, inclusion in a performance or financial report, etc.). Proposed paragraph (a)(4) required States to document that employment and case management services described in subpart C were provided or offered to a participant. This is not a new requirement; however, this was not previously explicitly stated in regulation. One commenter wrote that requiring program administrators to retain files indefinitely would be needlessly burdensome. The Department clarifies that there is no requirement for indefinite retention of records. Section 618.852 provides recordkeeping requirements to which States must adhere and refers to the Uniform Guidance at 2 CFR 200.333. If a trade-affected worker applies for a training benefit after records are no longer available, the worker can be asked to supply information that will verify that he or she was part of a certified worker group. The documentation burden would shift from the State to the worker. The Department made a nonsubstantive edit in paragraph (a)(2)(i) of this section to correct a cross-reference to the section heading of a different section; otherwise, the final rule adopts the section as proposed.

Section 618.860 General Fiscal and Administrative Requirements and Cost Classification

Proposed § 618.860 was a new section that contained general fiscal and administrative requirements applicable to State administration of the TAA Program. It was modeled on WIOA regulations, but with significant differences. Proposed § 618.860 contained no requirements that States were not already required to meet. The final rule adopts the regulatory text as proposed.

Proposed paragraph (b) provided guidance on cost classification as administrative costs under the TAA Program, as authorized by section 235A of the Act and described in each TAA Program Annual Funding Agreement that States are required to submit annually. Paragraph (b)(1) provided that the Department will include each fiscal year's administrative cost limitation in grant documents or annual funding agreements. Proposed paragraph (b)(2) provided that the costs of administration in the TAA Program are the costs associated with performing the overall general administrative functions of the TAA Program, as described in paragraphs (b)(2)(i) through (xviii) of this section, and the coordination thereof within the American Job Center network established under WIOA.

One commenter requested examples of items under § 618.860(b)(2) that could be funded with employment and case management funds. Without additional context, the Department cannot provide a specific list. Employment and case management funds can be used for the costs of provision of activities found in § 618.310, among other things. The Department has technical assistance available on its website and will be providing training and additional technical assistance on this topic. To resolve individual case scenarios, we encourage contacting the appropriate regional office for additional assistance.

One commenter supported the provision at paragraph (i) that requires States to dedicate a portion of administrative and employment and case management funding to MIS development, saying its State's use of MIS indicates that other States could benefit from improving their MIS. The Department appreciates this support and the final rule adopts § 618.860 as proposed, with the exception of a spelling correction in paragraph (d)(2)(ii)(C).

Section 618.864 Trade Adjustment Assistance Program Performance

Section 618.864 of the proposed rule contained TAA Program performance requirements, as established by section 239(j) of the Act. This provision uses the term ''worker,'' consistent with the statute. For purposes of § 618.864, the term ''worker'' means a trade-affected worker. Proposed paragraph (a) required States to report specified data on TAA Program performance outcomes to the Department and required a description of the efforts made to improve outcomes for workers under the TAA Program. Specifically, States must report the primary indicators of performance identified in paragraph (b) of this section, which are very similar to those reported under WIOA. Paragraph (b)(2) related to the credential attainment indicator in paragraph (b)(1)(iv) and provided that, under the Act, workers who received benefits under the TAA Program and obtained a secondary school diploma or its recognized equivalent are only included in this indicator if they also obtained employment, or are in an education or training program leading to a recognized postsecondary credential within 1 year after exit from the program.

An LWDB stated that the credential attainment indicator in proposed § 618.864(b)(1)(iv) uses all TAA Program workers in its denominator, contrasting this calculation with the WIOA approach of including only workers of an education or training program in the denominator. The commenter stated that, based on the regulatory text, a worker that received only employment and case management services would be included in the credential measure. The Department clarifies that, under WIOA, only workers enrolled in an education or training program (excluding OJT and customized training) are counted in the denominator of this measure. The same LWDB said that § 618.864(b)(1)(iv), as drafted, does not align with 20 CFR 677.155(a)(1)(iv)(A) of the WIOA final rule because WIOA limits the measure to those in training. The Department has reviewed both statutes, the WIOA Final Rule, and the proposed regulatory text and concurs with the commenter that this should align with WIOA. Therefore, the Department has revised the regulatory text at § 618.864(b)(1)(iv) in the final rule to align with WIOA by limiting this measure to those in training and eliminated an unnecessary 'and' in 618.864(b)(ii).

Section 618.876 Verification of Eligibility for Program Benefits

Section 618.876 of the proposed rule implemented the requirements at section 239(k) of the Act for States to verify a trade-affected worker is in satisfactory immigration status. Proposed paragraph (a) provided that a trade-affected worker must be authorized to work in the United States in order to be eligible to receive benefits under the TAA Program. This provision required States to verify the status of participants who are not citizens or nationals of the United States. Proposed paragraph (b) required initial verification by States of the immigration status of self-reporting aliens who apply for UI through the U.S. Customs and Immigration Service's Systematic Alien Verification for Entitlement (SAVE) program. Proposed paragraph (c) required States to reverify a participant's eligibility if the documentation upon which eligibility was based expires during the period in which TAA benefits are received.

One commenter asked whether verification of eligibility for program benefits is the responsibility of the liable State or the agent State. Verification is the responsibility of the liable State, which is the State in which the trade-affected worker establishes UI eligibility until such worker establishes eligibility in another State. If the worker is receiving services in the agent State, the agent State assists the liable State in the verification. Agent States should contact liable States (and vice versa) to confirm that an initial verification was conducted. The final rule adopts the regulatory text as proposed.

Section 618.888 Equitable Tolling

Section 618.888 of the proposed rule originated from administrative guidance. Proposed paragraph (a) of this section provided that TAA Program deadlines may be equitably tolled when an extraordinary circumstance prevented a trade-affected worker's timely action and the worker otherwise acted with diligence.

Proposed paragraph (b) set out a burden-shifting framework for equitable tolling in one unique circumstance— when the State fails to give required notice to a trade-affected worker of a particular benefit (or potential benefit), thus permitting the deadline for that benefit (or potential benefit) to run without the worker's knowledge. In such an instance the failure to provide notice would constitute prima facie evidence of an extraordinary circumstance. Proposed paragraph (b) emphasized to States the importance of

complying with the notice requirements in this part 618. It should not be construed to otherwise lessen or lighten a worker's burden to show entitlement to equitable tolling in other circumstances.

Proposed paragraph (c) limited the time period for tolling to the period during which the extraordinary circumstance existed.

Finally, proposed paragraph (d) set a limit on how long a deadline may be equitably tolled: 36 Months. The 36-month limit strikes a balance between, on the one hand, fairness and equity for individual trade-affected workers and, on the other, the need for clarity and efficiency in the operation of the program as a whole.

Multiple commenters supported the inclusion of the equitable tolling provision and its 36-month limit. The Department appreciates this support.

One commenter asked under what circumstances a State could toll a deadline for 36 months. Other commenters generally asked for clarification on paragraph (d) of this section, which establishes the 36-month timeframe. One of the commenters recommended that States be allowed to exceed the 36-month deadline if funds are available. In creating the maximum extension period, the Department seeks both to allow claimants who were prevented from timely filing for TAA Program benefits due to extraordinary circumstances ample time to file and to ensure that the information States require to administer the TAA Program is still attainable following the passage of time. For example, where a trade-affected worker has not received notice of eligibility, the Department maintains that 36 months is a more than sufficient period of time for a reasonably diligent worker to discover his or her eligibility and apply for benefits. The Department has determined that, where equitable tolling of a deadline is applicable, a 36-month maximum extension period is a reasonable limit. The final rule adopts the regulatory text as proposed.

One commenter requested that the Department clarify the respective meanings of ''required notice'' and ''actual notice'' in paragraph (b)(2). The Department explains that in this example, a required notice would be the standard notice of benefits or eligibility issued under various subparts of this rule, versus actual notice, which could be a case manager informing the trade-affected worker of a deadline or other requirement during the provision of services. The final rule adopts the regulatory text as proposed.

Section 618.890 Staffing Flexibility

In 2010, the Department revised the TAA Program regulations by requiring, for the first time by regulation, that States administer the TAA Program strictly through staff meeting Federal merit personnel criteria.[11] As the Department noted then, ''the Trade Act does not directly address merit staffing'' and so the initial ''promulgation of the merit staffing rule [was] within the discretionary authority delegated to'' the Department ''to interpret the Trade Act and administer the TAA program.'' 75 FR 16988, 16990 (Apr. 2, 2010). In § 618.890 of the NPRM, the Department proposed to exercise its discretion by removing this mandate on States except for certain positions. The NPRM gave several reasons for this discretionary policy change, chief among them that staffing flexibility could help States better integrate the TAA Program with WIOA services.

Many commenters supported the proposal. One commenter generally supported the proposed staffing flexibility. Another commenter stated that the proposal would allow for better integration of the TAA Program and WIOA services. Other commenters stated that the proposal would result in cost savings or financial flexibility. One commenter affirmed that staffing flexibility is appropriate for its needs and would provide cost savings to it with respect to the delivery of case management services. Another commenter stated that it would allow States to shift local area costs for case management and employment services from WIOA to the TAA Program. Another commenter similarly stated that the proposed flexibility would relieve the financial burden imposed by the co-enrollment requirement.

Several LWDBs commented that the proposed staffing flexibility does not provide enough flexibility and recommended that the Department follow the model of Michigan's pilot program. Under this pilot program, the State allocated TAA Program funds to LWDBs while requiring that merit staff provide services. The commenters advocated taking language from the Department's then-proposed Wagner-Peyser staffing rule[12] on staffing flexibility that emphasized the variety of staffing options available to States, including continued use of merit staff, and identified a number of staffing models that may fit States' needs better, such as the use of local area staff or contractors. In developing these regulations, the Department considered all aspects related to merit staffing. The Department appreciates these comments and notes again that the flexibility provided by this rule permits States to use a wide variety of staffing models. No changes to the regulatory text have been made in response to these comments or those below.

[11] Merit staffing requirements had been part of the Governor-Secretary Agreements from 1975 to 2005.

[12] See 84 FR 29433 (June 24, 2019). The rule has since been finalized. See 85 FR 592 (Jan. 6, 2020).

General Comments Regarding the New Flexibilities

Other commenters had questions about or were opposed to this aspect of the Department's proposal. Some questioned the staffing flexibility proposal generally. One commenter characterized the proposal as aligning the Department's staffing policy with the Department's then-proposed Wagner-Peyser staffing rule and requested further analysis of TAA Program service delivery models before implementing the proposal. Another commenter cited administrative guidance as indicating that merit staffing is an important, longstanding element of the TAA Program. A different commenter argued that there were insufficient data to show that eliminating merit staffing would make the TAA Program more efficient. One commenter contended that privatization of government services has historically harmed public services in Texas and no evidence indicates the proposed flexibility would be any different. Likewise, other commenters cited studies for the proposition that privatization decreased efficiency in administering SNAP, where programs in Indiana and Texas provided fewer benefits at excessive costs. Another commenter provided what it viewed as other examples of privatized services' shortcomings, such as—according to the commenter—endemic corruption, failing to communicate with the served population, and neglecting to protect the privacy of records.

The offer of staffing flexibility to States is intended to allow them, where they see fit, to better integrate the TAA Program when helping workers. This integration includes allowing non-merit staff to charge their time to the TAA Program, including and especially at the one-stop delivery service level. In States that would like to do so, and where it is otherwise appropriate for them to do so, this better integration is expected to help service delivery in several ways. This change allows States to implement a seamless service delivery model where a trade-affected worker will not need to move from case manager to case manager depending on their merit staff status. Cost allocation of employment

and case management services costs will also be simpler as the merit staff status of case managers will be irrelevant for time-charging.

While the Department appreciates commenters' concerns derived from studies of two States' SNAP experience, SNAP is a different program with different statutory and regulatory requirements. States considering using this final rule's staffing flexibility are encouraged to consider the range of experiences other programs have had, including those noted in relevant research, or to conduct their own evaluations or pilot projects. States can also use lessons learned from other efforts as they decide whether to use the staffing flexibility in this final rule. States are in the best position to determine the staffing model that will best control their costs and serve their workers.

But regardless of how States choose to provide services under the TAA Program, they are still grantees of the TAA Program subject to the Department's oversight. States must oversee all operations of TAA Program activities and are still subject to the oversight and monitoring commitments at § 618.860(d)(2). The Department will continue to monitor States to ensure they are complying with all requirements of the TAA Program, this part 618, and 2 CFR parts 200 and 2900. The Department will hold States responsible for violations of regulations, the statute, and the Uniform Guidance.

Finally, the Department is not mandating that States change their staffing models, much less mandating privatization. In fact, many of the local area providers of WIOA services are municipal and county employees, not private-sector employees, and they would presumably remain so if used under the flexibilities provided by this rule. Where States have found that retaining Federal staffing criteria is the best approach for service delivery, they need not change that approach.

Staffing Models for Federal Entitlements

Multiple commenters argued that TAA Program service provision is an essential governmental function and only merit staffing can effectively deliver Federal entitlements such as TAA Program services. The same commenters quoted the 2010 rule that imposed Federal staffing requirements to argue that merit staff are unbiased, nonpartisan public servants who safeguard the interests of the population served and the public at large. These commenters further wrote that, in their view, merit staffing removes incentives for service providers to favor more readily employable candidates in order to inflate their job placement numbers. The commenters stated that the 2010 rule's description of the TAA Program, with its emphasis on accountability and transparency, makes the program more analogous to merit staffed UI and ES programs than WIOA. Another commenter cited a study for the proposition that publicly administered services better reduce inequality than do privatized services, which incentivize competitors to prioritize whom to serve and how according to their contractual incentive structure. The same commenter also cited another study for the proposition that privatizing administrative services does not reduce costs, as competition for administrative services is subject to high barriers to entry, including the complex nature of administrative services work and the necessity of long-term contracts.

The Department believes that allowing non-merit staff to charge their time to the TAA Program does not reduce transparency or limit access to the benefits available under the Act. In many areas, this additional flexibility will increase the level and timeliness of services available to trade-affected workers by allowing States to deploy resources faster by accessing additional providers that would not have been previously available with TAA Program funding. And while some States may find that merit staff serve workers admirably and fairly, that does not mean that they are the only personnel who can do so. States can structure their staffing arrangements to avoid perverse incentives and to ensure that TAA Program staff perform their duties with fairness, equality, and professionalism. Any funds expended under the TAA Program are subject to the same oversight requirements regardless of which type of entity expends those funds and the States, as the recipients of the grants, are ultimately responsible for the expenditure of these funds.

Quality and Uniformity of Service

Some commenters contended that Federal merit personnel requirements foster uniform or quality service. One commenter argued that case management and employment functions are so closely intertwined with merit staffed eligibility and compliance functions that they also should be subject to Federal merit staffing mandates. The commenter also wrote that the complexity of the TAA Program, especially in TRA requirements, necessitates the use of trained and experienced personnel such as State merit staff. Another commenter disagreed with the proposed rule's characterization of State merit staffing as ''one-size fits-all,'' arguing that State merit staff provide professional services with a close understanding of the needs of their region. The commenter said that its State's individual staff and unit as a whole has greater experience because of merit staffing requirements, and that the staff adhere to statewide performance standards and provide consistent, high-quality service crucial to the TAA Program. Another commenter stated that, for the TAA Program, merit staffing delivers services more efficiently than local area delivery models. This commenter and others maintained that because TAA Program services are triggered by specific events and entail services distinct from those of WIOA, State merit staffing provides a timely surge of workers trained to provide services for TAA Program certifications. These commenters contrasted this to cross-training local area staff who would only periodically use TAA-specific rules. The commenters further argued that because funding for case management is very limited, splitting the funding among local areas is impractical.

This rule's flexibility does not require States to change their merit staffing arrangements if they are working well, as may be the case in these commenters' States. But the flexibility of this rule acknowledges that other staffing models can also provide high-quality services. States can make those decisions as they know their programs best, provided they continue to meet the Department's requirements for, among other things, efficiency and quality service. The Department expects all services provided through Federal funds to be consistent and high quality. This is a key focus of the Department's oversight of all the grants it administers. And it holds true regardless of the nature of the entity—public or private, State or local—that ultimately delivers services.

The Department's high expectations of staff provided under other models has been borne out by experience. There are already several States where nearly all employment and case management services are provided by non-merit staff. This has been accomplished through co-enrollment under WIOA. The Department's oversight of these States has not uncovered any of the potential problems raised by the commenters here. The Department concludes there is no additional appreciable risk of compliance issues by allowing employment and case management services to be fully funded by the TAA Program, regardless of which type of entity provides these services. In addition, this final rule requires that

determinations be rendered by State or State merit staff and all determinations rendered under the TAA Program be subject to review by the Department.

Finally, regarding the specific point about the need for a timely surge of staff, at times the Department has found merit staffing requirements to impede surge capacity. Beginning during the Great Recession, many Governors established hiring freezes at the State level, even if the positions were federally funded. This left many States understaffed and unable to respond to large dislocation events, especially in rural areas. This final rule provides States with additional flexibility to meet the needs of trade-affected workers.

Accountability

Multiple commenters stated that merit staffing provides a better system of accountability than other systems, writing that trade-affected workers can raise concerns to State officials who have direct authority over merit staff. Another commenter recommended that the Department ensure that private providers be accountable. One commenter proposed requiring that TAA Program service contracts name workers as third-party beneficiaries, giving them a private right of action to enforce the terms of the contract.

The Department believes that this final rule includes adequate safeguards for accountability and transparency. While employees are accountable to their State employers, so are contractors and others who implement State requirements. In turn, States remain responsible for monitoring service providers to ensure that funds are appropriately spent and services are appropriately provided. The Uniform Guidance at 2 CFR part 200 establishes the foundation of accountability for all entities that expend Federal funds and will continue to be applied here. In addition, the Governor-Secretary Agreement and the grant agreements executed by the States provide accountability and transparency.

Merit Staff and WIOA Co-Enrollment

Several commenters wrote that the current rules allow for integration between the TAA Program and WIOA services through co-enrollment and the provision of both TAA Program and WIOA services at one-stop centers. One commenter added that TAA Program services are already integrated with WIOA services into one-stop operations, with TAA Program funding providing for case management by State merit ES staff. The same commenter wrote that the relationship between ES and the TAA Program would make it easier for current TAA Program merit staff to adapt to the proposed co-enrollment requirement. The Department has found that the combination of the changes to the merit staffing provisions and the requirement to co-enroll trade-affected workers in WIOA represents one of the most significant steps towards service integration since the original development of the one-stop service delivery model.

Other Comments on Staffing Flexibility

Several commenters stated that WIOA providers are not accustomed to processing appeals regarding a government service and WIOA providers have greater discretion in granting benefits. The Department clarifies that this final rule makes no changes to the handling of appeals. All appeals under the TAA Program are subject to the same process utilized for appeals under the UI program, which has a merit staffing requirement.

A different commenter asked if all determinations regarding program benefits would need to be approved by State merit staff only or by any State staff. Section 618.890(b) provides that determinations under the TAA Program can be made by either State merit staff or State non-merit staff subject to the restriction regarding redeterminations in § 618.890(a).

I. Subpart I—Allocation of Funds to States for Training and Other Activities

Subpart I revises the regulations currently found at 20 CFR 618.900 through 618.940. The Department first published these regulations on April 2, 2010 (75 FR 16988); they became effective May 3, 2010. Subpart I addresses the Act's provisions at sections 236(a)(2) and 245 and establishes how funds appropriated for TaOA are allocated by the Department to the States. Some highlights of changes to the regulation include introduction of a new term, TaOA; a statutory update of the annual funding limit; and an update to the reserve fund request process. This subpart I also addresses the recapture and reallocation provisions established by section 245(c) of the Act.

The Department received no comments relating to proposed §§ 618.900, 618.910, 618.920, 618.930 and 618.940. Accordingly, the Department adopts these provisions into the final rule as proposed. As discussed further below, the Department received only one comment in relation to subpart I.

Section 618.950 Recapture and Reallocation of Training and Other Activities Funds

Section 618.950 of the proposed rule provided the description of recapture and reallocation procedures that the Department may use to implement the recapture and reallocation provisions of section 245(c) of the Act.

One commenter expressed concern that recapture by the Department of allocated funds that remain unobligated after a certain period of time could leave States ''very vulnerable'' if, following recapture, a large petition is certified. The same commenter asked whether States could take back recaptured funds and argued a better approach would be to align the TAA Program recapture and reallocation provisions with the WIOA reallotment procedures found at 20 CFR 683.135. The Department clarifies that for unforeseen situations, a State may always request TAA Program reserve funds using the Reserve Funds Process set forth at § 618.920, TAA Program Reserve Funds. Unlike WIOA, the TAA Program is a mandatory entitlement with ''capped'' funds for training; however, 35 percent of FY training funds are held in reserve for exactly this reason (*i.e.,* States experience unexpected/unforeseen events that require additional funds). Further, the Department will only recapture funds after having consulted with the State. The final rule adopts the section as proposed.

IV. Agency Determinations

A. Legal Authority

The Act established the programs collectively known as the TAA Program (codified at 19 U.S.C. 2271 *et seq.*). This statute has been amended many times since its enactment, including multiple amendments since 2002 that have substantially affected the TAA Program (*e.g.,* Pub. L. 107–210 (2002); Pub. L. 111–5 (2009); Pub. L. 112–40 (2011); Pub. L. 114–27 (2015)). Until this final rule, the Department's regulations under the Act, codified at 20 CFR parts 617 and 618, and 29 CFR part 90, had not been fully updated in response to the various statutory amendments to the Act. As a result, some portions of the regulations may not have reflected current law. Section 248(a) of the Act (19 U.S.C. 2320(a)) requires that the Department prescribe such regulations as are necessary to carry out the provisions of the Act. Therefore, the Department is issuing this final rule to update and consolidate the regulations in order to fully implement all statutory amendments to the TAA Program.

B. Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 13771 (Reducing Regulation and Controlling Regulatory Costs)

Under E.O. 12866, OMB's Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and, therefore, subject to the requirements of the E.O. and OMB review (see 58 FR 51735, Oct. 4, 1993). Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule that: (1) Has an annual effect on the economy of $100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as economically significant); (2) creates serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O. OMB has determined that this rule is significant under section 3(f) of E.O. 12866. Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), OIRA has designated this rule as not a ''major rule,'' as defined by 5 U.S.C. 804(2).

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

Outline of the Analysis

Section IV.B.1 describes the need for this final rule, and Section IV.B.2 describes the process used to estimate the costs of this final rule and the general inputs used, such as wages and number of affected entities. Section IV.B.3 discusses the public comments received in response to the NPRM. Section IV.B.4 explains how the provisions of this final rule will result in quantifiable costs, cost savings, and transfer payments, and presents the calculations the Department used to estimate them. In addition, Section IV.B.4 describes the qualitative costs, transfer payments, and benefits of this final rule. Section IV.B.5 summarizes the estimated first-year and 10-year total costs, cost savings, net cost savings, and transfer payments of this final rule. Finally, Section IV.B.6 describes the regulatory alternatives that were considered during the development of this final rule.

Summary of the Analysis

The Department estimates that this final rule will result in costs, cost savings, and transfer payments. As shown in Exhibit 1, this final rule is expected to have an average annual cost of $5,596 and a total 10-year cost of $39,305 (with 7-percent discounting). This final rule is estimated to have annual cost savings of $75,316 and total 10-year cost savings of $528,988 (with 7-percent discounting). Cost savings associated with the rule are from revisions to the definition of ''final determination'' related to judicial appeals and from streamlining the reconsideration process. In addition, this final rule is estimated to result in annual transfer payments of $898,927 and total 10-year transfer payments of $6,313,684 (with 7-percent discounting). The Department estimates that this final rule will result in net cost savings of $597,559 discounted at 3 percent and $489,683 discounted at 7 percent, both expressed in 2019 dollars. For the purpose of E.O. 13771, the annualized net cost savings in 2016 dollars, over a perpetual time horizon, is $50,902 discounted at 7 percent.[13]

EXHIBIT 1—ESTIMATED MONETIZED COSTS, COST SAVINGS, NET COST SAVINGS, AND TRANSFER PAYMENTS OF THE NPRM

[2019 dollars]

	Costs	Cost savings	Net Cost savings [a]	Transfer payments
Undiscounted 10-Year Total	$50,192	$753,160	$702,968	$8,989,265
10-Year Total with 3% Discounting	44,902	642,461	597,559	7,668,025
10-Year Total with 7% Discounting	39,305	528,988	489,683	6,313,684
10-Year Average	5,019	75,316	70,297	898,927
Annualized with 3% Discounting	5,264	75,316	70,052	898,927
Annualized with 7% Discounting	5,596	75,316	69,720	898,927
Perpetuated Net Cost Savings [a] with 7% Discounting (2016 dollars)	$50,902			

[a] Net Cost Savings = [Total Cost Savings] − [Total Costs].

The costs of this final rule are those associated with State staff needing to familiarize themselves with the new regulations, the development of IEPs for trade-affected workers, and the implementation of two IC forms (*i.e.,* ETA Form 8561, Study of Domestic Industry, and ETA Form 9185, Application for Reconsideration). The largest contributors to the cost savings of this final rule are from revisions to the definition of ''final determination'' related to judicial appeals and from streamlining the reconsideration process. See the cost and cost savings subsections of Section IV.B.4 (Subject-by-Subject Analysis) below for a detailed explanation.

[13] Based on OMB's E.O. 13771 guidance memo, M–17–21, perpetuated net cost savings for the purposes of E.O. 13771 are presented in 2016 dollars. Net cost savings in 2019 dollars are converted to 2016 dollars using the GDP deflator from the Bureau of Economic Analysis. BEA. (2019). ''Table 1.1.9. Implicit Price Deflators for Gross Domestic Product.'' Retrieved from: *https://apps.bea.gov/iTable/iTable.cfm?reqid=19&step=3&isuri=1&select_all_years=0&nipa_table_list=13&series=a&first_year=2000&scale=-99&last_year=2019&categories=survey&thetable=x.* The savings are then discounted by 4 years at 7 percent annually to reflect that the rule will not take effect until 2020.

The Department was unable to quantify one cost, three transfer payments, and the benefits of this final rule. We describe these costs and transfer payments, along with the rule benefits, qualitatively in Section IV.B.4 (Subject-by-Subject Analysis).

1. Need for Regulation

On June 29, 2015, the Trade Preferences Extension Act of 2015 (Pub. L. 114–27) was signed into law. Title IV reauthorizes the TAA Program for Workers program through 2021; it is known as TAARA 2015.

The regulations governing the TAA Program were last updated in 1994, with only minor changes made in 2007 [14] and 2010. Since that time, multiple TAA Program amendments have occurred. In addition, a 2014 reform of the public workforce system, WIOA, reaffirms the TAA Program as a mandatory partner program in the one-stop delivery system.

Prior to this final rule, the Department had addressed all TAA Program amendments through administrative guidance. As a result, a combination of regulations and a patchwork of administrative guidance guided the worker-group certification process at the Federal level and the administration of individual benefits and services at the State level.

This final rule will promote transparency by setting out in binding regulation the major principles by which the TAA Program operates, which will provide the public and courts with the Department's authoritative interpretation of the Act. This final rule also will include changes that increase States' flexibility to administer the program, improve service delivery, and reduce costs. In addition, this final rule will incorporate clarifications that draw upon the Department's expertise gained from decades of experience operating the TAA Program.

Through this final rule, the Department seeks to modernize its TAA Program regulations to reflect changes to the workforce, technology, and the administration of the program that have occurred since the Department's last comprehensive update to the regulations in 1994. The Department also seeks to consolidate all applicable program regulations into a single section of the CFR.

The goal of the TAA Program is to help each participating worker obtain, as quickly as possible, suitable employment when possible and nonsuitable employment otherwise. This goal will be accomplished by providing trade-affected workers access to training that will allow workers to compete for work at the highest skill levels and highest wages achievable, given the workers' preexisting skill levels, abilities, and education, and the current and projected labor market, and do so as quickly as possible. The TAA Program includes the RTAA benefit, which may be available to workers 50 years of age or older. The TAARA 2015 amendment of the TAA Program restored the major expansions in TAA Program worker group eligibility to service sector workers and workers who are affected by trade from any country, including countries that do not have Free Trade Agreements with the United States, including China and India.

2. Analysis Considerations

The Department estimated the costs, cost savings, and transfer payments of this final rule relative to the existing baseline; that is, the current practices for complying with, at a minimum, the TAA Program as currently codified at 20 CFR parts 617 and 618, and 29 CFR part 90, as well as in administrative guidance.[15] The Department explains how the required actions of States, government agencies, and other related entities were linked to the expected costs, cost savings, transfer payments, and benefits.

In accordance with the regulatory analysis guidance articulated in OMB Circular A–4 and consistent with the Department's practices in previous rulemakings, this regulatory analysis focuses on the likely consequences of this final rule (*i.e.,* costs, cost savings, transfer payments, and benefits that accrue to entities affected). The analysis covers 10 years (2020 through 2029) to ensure it captures major costs, cost savings, and transfer payments that accrue over time. With the exception of analyses required under E.O. 13771, the Department expresses all quantifiable impacts in 2019 dollars and uses 3- and 7-percent discounting following OMB Circular A–4.

Exhibit 2 presents the number of entities that will be affected by the requirements of this final rule. The Department provides these estimates and uses them throughout this analysis to estimate the costs, cost savings, and transfer payments of this final rule.

EXHIBIT 2—NUMBER OF AFFECTED ENTITIES BY TYPE [a]

Entity type	Number
States (total) [b]	52
Additional trade-affected workers that will require an IEP due to a comprehensive and specialized assessment (annual) [c]	24
Number of firms that will participate in domestic industry study each year (annual) [d]	12
Number of applications for reconsideration submitted each year (annual)	25

[a] Unless otherwise noted, the number of affected entities was obtained from Trade Act Participant Report (TAPR)—State quarterly reporting and record keeping information; Management Information System (MIS)—OTAA's petition database. Data as of January 23, 2020.

[b] The 52 States used for purposes of this analysis consist of the 50 States, the District of Columbia, and Puerto Rico.

[c] The Department derived this number by taking the average of the annual number of individuals who received training, job search, or relocation allowances (i.e., program exiters) in FY 2013 through FY 2019.

[d] Since 1998, the Department has conducted three domestic industry studies. However, for purposes of this analysis, the Department estimates that it will conduct one study per year.

Estimated Number of Workers and Level of Effort [16]

The Department presents the estimated average number of trade-affected workers and the estimated average level of effort required per worker for each activity in the subject-by-subject analysis. To derive these estimates, Department TAA Program experts estimated the average levels of effort and the average number of workers needed for each activity to meet

[14] Minor changes were made to 29 CFR part 90.

[15] Current administrative guidance related to the TAA Program can be found at *https://www.doleta.gov/tradeact/law/directives-guidance/*.

[16] Trade Act Participant Report (TAPR)—State quarterly reporting and record keeping information; Management Information System (MIS)—OTAA's petition database. (2020). Unpublished data.

the requirements relative to the baseline (*i.e.,* the current practice under the TAA Program). These estimates are the national averages for all States; thus, some States could experience higher actual costs, cost savings, or transfer payments, while these impacts could be lower for other States.

Compensation Rates

In the subject-by-subject analysis, the Department presents the labor and other costs associated with the implementation of the provisions of this final rule. Exhibit 3 presents the compensation rates for the occupational categories expected to experience a change in the level of effort (workload) due to this final rule. We use BLS mean hourly wage rates for State government and private sector employees.[17] [18] [19] We use Office of Personnel Management (OPM) and U.S. courts wage rates for Federal employees.[20] [21] We adjust the wage rates to reflect total compensation, which includes nonwage factors, such as overhead and fringe benefits (*e.g.,* health and retirement benefits). For all labor groups (*i.e.,* State government, private sector, and Federal Government), we use an overhead rate of 17 percent [22] and a fringe benefits rate based on the ratio of average total compensation to average wages and salaries in 2019. For the State government employees, we use a fringe benefits rate of 61 percent.[23] [24] For the private sector employees, we use a fringe benefits rate of 43 percent.[25] [26] For the Federal Government, we use a fringe benefits rate of 63 percent.[27] We then multiply the loaded wage factor by the corresponding occupational category wage rate to calculate an hourly compensation rate.

The Department uses the hourly compensation rates presented in Exhibit 3 throughout this analysis to estimate the labor costs for each provision.

EXHIBIT 3—COMPENSATION RATES

[2019 dollars]

Position	Grade level	Average hourly wage rate	Loaded wage factor components		Hourly compensation rate
			Overhead factor	Fringe benefits factor	
		a	b	c	d = a + (a × b) + (a × c)
Private Sector Employees:					
Employment Counselor	N/A	$21.70	0.17	0.43	$34.72
Attorney		74.20			118.72
Individual Completing ETA Form 8561, Domestic Industry Study.		60.36			96.58
Individual Completing ETA Form 9185, Application for Reconsideration.		32.25			51.60
State Government Employees:					
Employment Counselor	N/A	24.83	0.17	0.61	44.20

[17] BLS. (2019). ''May 2018 National Industry-Specific Occupational Employment and Wage Estimates: NAICS 999200—State government, excluding schools and hospitals (OES designation).'' Retrieved from: *http://www.bls.gov/oes/current/naics4_999200.htm.* The May 2018 mean hourly wages were adjusted to September 2019 values using Employment Cost Indices (ECI) for State and local government workers. ECI data were obtained from ''Table 7. Employment Cost Index for total compensation, for State and local government workers, by occupation and industry (not seasonally adjusted).'' BLS. (2019). ''Employment Cost Index Historical Listing—Volume V, Continuous Occupational and Industry Series, September 1975–September 2019 (December 2005=100).'' Retrieved from: *https://www.bls.gov/web/eci/ecicois.pdf.*

[18] BLS. (2019). ''May 2018 National Occupational Employment and Wage Estimates by Ownership: Cross-industry, private ownership only: SOC Major Groups in Cross-industry, private ownership only (OES designation).'' Retrieved from: *https://www.bls.gov/oes/current/000001.htm.* The May 2018 mean hourly wages were adjusted to September 2019 values using ECI for private industry workers. ECI data were obtained from ''Table 5. Employment Cost Index for total compensation, for private industry workers, by occupation and industry, Continuous occupational and industry series (not seasonally adjusted).'' BLS. (2019). ''Employment Cost Index Historical Listing—Volume V—Continuous Occupational and Industry Series, September 1975–September 2019 (December 2005=100.'' Retrieved from: *https://www.bls.gov/web/eci/ecicois.pdf.*

[19] ETA Form 9185 (Application for Reconsideration) may be filed by a company official, a union representative, two workers, or a State. To estimate the average hourly wage rate for the person completing ETA Form 9185, the Department used a weighted-average based on the percent of petitioners by type (in FY 2017) and the corresponding hourly rate: (1) Company/union officials account for 21% of petitioners at an hourly labor wage rate of $60.36 per hour; (2) workers account for 17% of petitioners at an hourly labor wage rate of $24.61 per hour; (3) States account for 62% of petitioners at an hourly labor wage rate of $24.83 per hour. This calculation results in a weighted average of $32.25 ([0.21×$60.36] + [0.17×$24.61] + [0.62×$24.83]).

[20] OPM. (2019). ''Salary Table 2019–DCB Incorporating the 1.4% General Schedule Increase and a Locality Payment of 29.32% for the Locality Pay Area of Washington-Baltimore-Arlington, DC–MD–VA–WV–PA.'' Retrieved from: *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/DCB_h.pdf.* Federal employee wage rates are used to estimate cost savings associated with reconsiderations and judicial appeals. Because these two processes are conducted by Headquarter staff, the Department uses DC–MD–VA–WV–PA wage rates to estimate labor costs.

[21] For District Court Judge: U.S. Courts. (2019). ''Judicial Compensation.'' Retrieved from: *http://www.uscourts.gov/judges-judgeships/judicial-compensation.* For District Court Clerk: U.S. Courts. (2019). ''Judiciary Salary Plan, New York-Newark, NY–NJ–CT–PA—Table NY, 33.06% Locality Payment Included, Effective January 7, 2019.'' Retrieved from: *https://www.uscourts.gov/sites/default/files/jsp_new_york_2019.pdf.*

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

[23] BLS. (2019). ''2019 Employer Costs for Employee Compensation.'' Retrieved from: *https://www.bls.gov/ncs/ect/data.htm.* Total compensation for all workers. Average Series ID CMU3010000000000D, CMU3010000000000P. To calculate the average total compensation in 2019, we averaged the total compensation for all workers for Quarters 1 through 3.

[24] BLS. (2019). ''2019 Employer Costs for Employee Compensation.'' Retrieved from: *https://www.bls.gov/ncs/ect/data.htm.* Wages and salaries for all workers. Average Series ID CMU3020000000000D, CMU3020000000000P. To calculate the average wage and salary in 2019, we averaged the wages and salaries for all workers for Quarters 1 through 3.

[25] BLS. (2019). ''2018 Employer Costs for Employee Compensation.'' Retrieved from: *https://www.bls.gov/ncs/ect/data.htm.* Total compensation for all workers. Average Series ID CMU2010000000000D, CMU2010000000000P. To calculate the average total compensation in 2019, we averaged the total compensation for all workers for Quarters 1 through 3.

[26] BLS. (2019). ''2018 Employer Costs for Employee Compensation.'' Retrieved from: *https://www.bls.gov/ncs/ect/data.htm.* Wages and salaries for all workers. Average Series ID CMU2020000000000D, CMU2020000000000P. To calculate the average wage and salary in 2019, we averaged the wages and salaries for all workers for Quarters 1 through 3.

[27] Department of Labor. (2018). ''DOL-Only Performance Accountability, Information, and Reporting System; OMB Control No. 1205–0521.'' Retrieved from: *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201802-1205-003.*

EXHIBIT 3—COMPENSATION RATES—Continued

[2019 dollars]

Position	Grade level	Average hourly wage rate	Loaded wage factor components		Hourly compensation rate
			Overhead factor	Fringe benefits factor	
		a	b	c	d = a + (a × b) + (a × c)
Attorney		44.98			80.06
Federal Government Employees:					
Investigator	GS–11, Step 5	37.79	0.17	0.63	68.02
Certifying Officer	GS–14, Step 5	63.64			114.55
Attorney	GS–14, Step 7	74.20			121.28
District Court Clerk	GS–13, Step 1	49.06			88.31
District Court Judge	N/A	101.39			182.50

Transfer Payments

The Department provides an assessment of transfer payments associated with the NPRM. In accordance with OMB Circular A–4, we consider transfer payments as payments from one group to another that do not affect total resources available to society.

3. Discussion of Comments

One State workforce agency expressed concern about the ''soundness'' of the Department's analysis with respect to the effect of the staffing flexibility provisions. An advocacy group stated that ''[n]o experience, evidence, or economic analysis'' demonstrates that workers will benefit from the ''privatization'' of TAA Program services. The commenter said the Department's estimate that the proposal would result in cost savings of ''some half-million dollars'' does not outweigh the risk that ''tens of millions of dollars will be misspent.'' Another State workforce agency expressed concern that outsourcing TAA Program services to non-merit staff would ''double'' the administrative costs faced by States. The agency said that State resources for program administration are already stretched thin and argued that the proposal would worsen the situation unless the Department provides States more funding to offset the increased costs.

The Department acknowledges these views and concerns, but this final rule does not privatize TAA Program services; rather, it provides flexibility to States to offer TAA Program services using the best staffing models available to them to provide these services, while the Department maintains oversight and long-established criteria for proper and efficient delivery of those services. States are encouraged to consider cost effectiveness when determining whether to use flexible staffing models for the delivery of TAA Program activities. States also are encouraged to conduct evaluations of various service delivery models. The Department anticipates that States will choose the service delivery model that is the most cost effective in their State.

One advocacy group stated that the analysis may have underestimated the extent to which staffing flexibility would be adopted because it assumed that half of States would use non-merit staff and then took that assumption to mean that half of program participants would receive their services from non-merit staff. This commenter said that these assumptions do not account for States that have large participant populations. The commenter did not suggest an alternative assumption. The Department based its assumption on experiences with similar programs and has determined that with limited data available, its assumption is reasonable.

Multiple unions and advocacy groups said the analysis did not make clear what methodology (beyond what the commenters termed ''an unspecified Departmental administrative guidance'') was used to estimate the costs of overhead for staff. The commenters stated that, without additional information about how the Department determined the costs of overhead and fringe benefits, it would be ''impossible'' to assess the costs associated with wages and compensation to compare salaries of public- and private-sector workers.

In the proposed rule, the Department doubled the base wage rate to account for fringe benefits and overhead costs. For State government employees, doubling the base wage rate reflected a fringe benefits rate of 59 percent and an overhead rate of 41 percent. For private sector employees, doubling the base wage rate reflected a fringe benefits rate of 43 percent and an overhead rate of 57 percent. For Federal Government employees, doubling the base wage rate reflected a fringe benefits rate of 63 percent and an overhead rate of 37 percent. In this final rule, the Department used updated ECEC data to calculate the fringe benefits rates and the results were: 61 percent for State government employees, 43 percent for private sector employees, and 63 percent for Federal Government employees. In response to public comments, the Department reevaluated the most appropriate overhead rate to use in the analysis. For this final rule, the Department lowered the overhead rate for all workers to 17 percent [28] to reflect the low marginal increase in overhead costs for a rule that will have minimal net impact on the number of individuals employed to administer the program. Using 17 percent for all workers will create a consistent benchmark between public- and private-sector workers and show that the differences in cost between public- and private-sector workers relate to compensation (wages and fringe benefits).

Multiple unions and advocacy groups stated that the economic analysis used inaccurately high wages for public sector employees, an assumption that they said goes against recent studies and the ''actual experiences'' of several States, a few examples of which they cited. They also stated that Occupational Employment Statistics (OES) data should not be relied on to compare the salaries of government and private sector workers. However, the commenters did not provide any alternative sources for wage data and the privatization examples provided were anecdotal. The Department continues to view OES as the best source available for wage data by occupation, industry, and State. No data source is perfect, but OES data are the

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

most robust and reliable data available for the Department's analysis.

Multiple unions and advocacy groups commented that the analysis relies on ''other questionable underlying assumptions,'' such that contractors will be able to comply with the requirements for use of funds in § 618.860(g), which specify that no less than 5 percent of funds may be spent on employment and case management services, while no more than 10 percent of funds may be spent on administration costs. The commenters stated that this assumption of compliance overlooks the ''unique'' and ''distinct'' monitoring and administration requirements that accompany contracted services and serve to inflate their administration costs. Citing data from the Government Finance Officers Association and Rutgers University, respectively, the commenters said that ''standard'' administration costs for contractors run from 10 to 20 percent and in some cases can even exceed 20 percent. The commenters expressed doubt that the Department's commitment to monitoring compliance with the use of funds requirements ''throughout the grant life cycle'' and enforcing them ''during the closeout process'' will be sufficient to maintain the high quality of services currently delivered by experienced merit staff, both in the TAA Program and in other Federal workforce development programs, if non-merit staff are used instead.

The Department acknowledges these data and recognizes that there would be costs associated with monitoring and administering a contract to deliver TAA Program services. There also would be a reduction in costs due to the diminished need for management and oversight of State employees. The Department does not have a way to reliably estimate the difference between the new administrative costs and the administrative cost savings, but addressed commenters' concerns to the extent possible by adjusting the overhead rate to a consistent benchmark for all public- and private-sector employees, as described above. Additionally, the Department remains committed to maintaining the high quality of services provided by the TAA Program, and, as described above, anticipates that States only will choose to contract with service providers when such a service delivery model is the most cost-effective in their State. Furthermore, as the commenters mentioned, the Department has many tools to monitor States' administration of the TAA Program. Regardless of whether and how States choose to use these new flexibilities, they must continue to meet statutory and regulatory spending requirements.

One State workforce agency expressed disagreement with proposed alternative 1 (no action) and said proposed alternative 3 (more stringent, less flexible regulations with clarification provided in administrative guidance) would not provide enough flexibility for its State. The commenter said that of the three alternatives described, the second proposed alternative (reduced number and types of regulatory provisions) would most benefit the people of its State. The commenter does not provide sufficient context for the Department to determine whether the commenter prefers the second proposed alternative over the Department's preferred approach or just over the other two proposed alternatives. The Department has chosen not to pursue the second proposed alternative because, as described below, this regulatory alternative has the disadvantage of forcing the regulated community to follow statutory language for implementation, which comes with increased risk of noncompliance.

4. Subject-by-Subject Analysis

The Department's analysis below covers the expected costs, cost savings, and transfer payments of this final rule.

The Department emphasizes that many of the provisions in this final rule were already requirements in regulation, statute, or administrative guidance. This final rule will codify these practices under one set of regulations and, therefore, they are not considered ''new'' burdens resulting from this final rule. Accordingly, the regulatory analysis focuses on new costs, cost savings, and transfer payments that can be attributed exclusively to this final rule.

Costs

The following sections describe the costs of this final rule.

Quantifiable Costs

a. Rule Familiarization

When this final rule takes effect, State staff will need to read and interpret the regulations. Through this review, State staff will familiarize themselves with the structure of the new regulation. Based on previous experience on similar rulemaking efforts, the Department anticipates that non-legal (program) staff will review the new regulations during the first year to identify any new provisions relevant to their operations. The Department also anticipates that legal staff will review the new regulations during the second year, as denials and other legal issues need to be resolved. As a result, reviewing the new regulation will impose an initial one-time cost in each of the first 2 years.

To estimate the first year cost of rule familiarization, the Department multiplied the number of States (52) by the estimated number of non-legal staff that will conduct the activity (2 State employment counselors). The Department then multiplied this product by the amount of time required to review the rule (2 hours) and by the hourly compensation rate ($44.20 per hour). This calculation results in a one-time undiscounted cost of $9,194 in the first year of this final rule.

In the second year, the Department estimates that two-thirds of the States will have legal staff review the rule. Therefore, to calculate the one-time cost of rule familiarization in the second year, the Department multiplied the number of States (52) by two-thirds (2⁄3 or 0.67) and by the estimated number of legal staff conducting the activity (two State attorneys). The Department then multiplied this product by the amount of time required to review the rule (2 hours), and by the hourly compensation rate ($80.06 per hour). This calculation results in a one-time undiscounted cost of $11,208 in the second year of this final rule.

The sum of these first- and second-year one-time costs yields a total average annual undiscounted cost of $2,040. The total costs over the 10-year period are estimated at $20,402 undiscounted, or $19,491 and $18,382 at 3- and 7-percent discount rates, respectively. The annualized cost over the 10-year period is $2,285 and $2,617 at 3- and 7-percent discount rates, respectively.

b. Development of IEPs for Trade-Affected Workers Seeking Training or Job Search Allowances

Under § 618.350(a), States must make available an IEP to all trade-affected workers and establish an IEP for trade-affected workers who apply for training under subpart F, or AAWs who apply for a job search allowance under subpart D, prior to the worker receiving those benefits and services. An IEP is an individualized career service under WIOA section 134(c)(2)(A)(xii)(II) and is developed jointly by the WIOA program participant and career planner when determined appropriate by the one-stop center or one-stop partner. The IEP is an ongoing strategy to identify employment goals, achievement objectives, and an appropriate combination of services for workers to achieve their employment goals. To ensure efficient use of time and resources, this final rule provides that, if an IEP has been developed under

WIOA, or other partner program, it will be reviewed once the worker becomes a trade-affected worker to ensure it has certain components required by the TAA Program, as listed in § 618.350(c). If the IEP does not contain all required components, the IEP must be supplemented by the State in conjunction with the trade-affected worker to ensure it is fully compliant with the TAA Program requirements.

Based on program data, the Department estimates that, each year, States will need to develop or supplement IEPs for 24 trade-affected workers [29] that apply for training and job search allowances and do not yet have an IEP or whose IEP does not contain all of the required components.

To estimate the costs associated with developing or supplementing IEPs, as a result of requiring IEPs for training and job search allowance applicants, the Department multiplied the estimated number of affected trade-affected workers (24) by the cost per IEP ($22.10).[30] This calculation results in an annual undiscounted cost of $530. The total cost over the 10-year period is estimated at $5,300 undiscounted, or $4,521 and $3,722 at 3- and 7-percent discount rates, respectively. The annualized cost over the 10-year period is $530 at both 3- and 7-percent discount rates.

c. Other Quantifiable Costs

Other quantifiable costs of this final rule stem from the implementation of two IC forms: (1) ETA Form 8561, Study of Domestic Industry; and (2) ETA Form 9185, Application for Reconsideration.

The Department is reactivating ETA Form 8561 A/B/C, Standard Questionnaire for Manufacturing Firms, by revising it as ETA Form 8561, Study of Domestic Industry. The Department will use ETA Form 8561 to collect information from firms within an industry subject to an investigation by the ITC under section 202 of the Act. The Department then will use the information collected to produce a report for the President, as required under section 224 of the Act. The report will contain information on the number of workers in the domestic industry producing the like, or directly competitive, article who have been, or are likely to be, certified as eligible for adjustment assistance, and the extent to which the adjustment of such workers to the import competition may be facilitated using available programs. The Department anticipates conducting one industry study per year, and that each firm will submit one response. To estimate the costs associated with the implementaion of ETA Form 8561, the Department multiplied the number of firms that will participate in each industry study (12) by the amount of time required to complete the form (1 hour) and by the hourly compensation rate ($96.58 per hour). This calculation results in an annual undiscounted cost of $1,159.

The Department also is implementing a new form: ETA Form 9185, Application for Reconsideration. ETA Form 9185 standardizes the information required by regulations for an aggrieved party to seek administrative reconsideration of a termination of investigation, termination or partial termination of a certification, or a negative determination of a petition. To estimate the costs associated with this form, the Department multiplied the estimated number of applications that will be submitted each year (25) by the amount of time required to complete the application (1 hour) and by the hourly compensation rate ($51.60 per hour). This calculation results in an annual undiscounted cost of $1,290.

The sum of these costs yields a total annual undiscounted cost of $2,449. The total cost over the 10-year period is estimated at $24,490 undiscounted, or $20,890 and $17,200 at 3- and 7-percent discount rates, respectively. The annualized cost over the 10-year period is $2,449 at both 3- and 7-percent discount rates.

Nonquantifiable Costs

a. Criteria for Certification of Worker Groups

This final rule provision at § 618.225 substantially updates 29 CFR 90.16(b) to describe the criteria the Department uses to certify worker groups, which have expanded significantly under section 222 of the Act. It also identifies factors under consideration in determining whether a criterion has been met. The revised language provides transparency on how investigations are conducted, the importance of information collected, and how the information is used. The new provisions reflect the requirements of the Act, Departmental practices, and, in some instances, thresholds for select criteria. The provision also includes teleworkers and staffed workers because they are frequently performing the same work as other trade-affected workers in the subject firm or subdivision and are under the subject firm's control.

As a result of this change, the Department will need to spend de minimis time to update forms. The Department has no data to determine if the number of applications that will be submitted would change and, therefore, cannot quantify any potential cost related to a change in the number of applications due to this change.

Cost Savings

The following sections describe the cost savings of this final rule.

Quantifiable Cost Savings

a. Reconsideration

Currently, the process for reconsiderations (29 CFR 90.18) has two steps. Applicants request a reconsideration, and the Department either accepts or denies the request. Acceptance or denial results in a posting to the **Federal Register** and a notification to the applicant. If accepted, the reconsideration process begins, and a decision is reached. If denied, the petitioner likely will appeal to the USCIT.

This final rule will eliminate the step requiring the Certifying Officer to make and issue a determination on whether or not a reconsideration will be initiated (29 CFR 90.18(c)). The Department has concluded that eliminating this step would decrease time and burden, and simplify the process.

Under the new process in § 618.245, the Department will initiate an investigation on all valid reconsideration applications, conduct the required review, and post the results via the **Federal Register** and the Department's website. Although this new process will not eliminate reconsiderations, the Department estimates that it will reduce the processing time involved for all reconsiderations by approximately 33 percent, as there will be no initial review of the request or related notification. Thus, under the new process, the cost per reconsideration will be 67 percent of the cost under the current process. The Department estimates that the cost per reconsideration under the current process is $2,022.[31] Under the new

[29] The Department derived this number by calculating the average of the annual number of workers who received training, job search, or relocation allowances (*i.e.,* program exiters) in FY 2013 through FY 2019.

[30] The cost per IEP is estimated by multiplying the hourly compensation rate of a State employment counselor ($44.20 per hour) by the time spent developing the IEP (0.50 hours), resulting in a cost estimate of $22.10.

[31] The Department estimates the cost to process a reconsideration based on the cost to process a full petition due to data availability. The Department estimates that the cost to process a reconsideration under the current process is 86 percent of the cost to process a full petition. This estimate is based on an average of 60 days to process a reconsideration compared to a median of 70 days to process a full petition (60/70=86 percent).

Continued

process, the Department estimates that the cost per reconsideration will be $1,355 (0.67 × $2,022 per reconsideration). Under the current and revised processes, approximately 25 reconsiderations are filed per year, and the Department concludes that will not change. To estimate the cost savings associated with this change, the Department subtracted the cost per reconsideration under the new process ($1,355) from the cost per reconsideration under the current process ($2,022) and then multiplied by the number of reconsiderations filed per year (25). This yields an average annual undiscounted cost savings of $16,675. The total cost savings from the new reconsideration process over the 10-year period is estimated at $166,750 undiscounted, or $142,241 and $117,118 at 3- and 7-percent discount rates, respectively. The annualized cost savings over the 10-year period is $16,675 at both 3- and 7-percent discount rates.

b. Judicial Appeals

Under previous regulations, all determinations the Department rendered are final determinations subject to judicial review. As a result, nearly any determination the Department rendered can be appealed to the USCIT (29 CFR 90.19).

In this final rule, the Department will define only determinations on reconsideration issued under § 618.245(g) as final determinations and, therefore, only these determinations are subject to judicial review through the USCIT. This will reduce the time and effort spent by Department employees, petitioners, and the USCIT on appeals that have not yet been subject to the reconsideration process. These appeals require legal counsel for the Department and for the appellant, and associated fees are involved with the proceedings. By revising the definition of ''final determinations'' and through the revisions to the reconsideration process, the Department concludes that the number of judicial appeals will be reduced to two per year.

The Department estimates the cost savings from reducing the number of judicial appeals by subtracting the estimated number of judicial appeals under this final rule (two per year) from the current number of judicial appeals per year (five per year) and multiplying by the cost per appeal ($19,547).[32] This yields average annual undiscounted cost savings of $58,641. The total cost savings from the reduction in judicial appeals over the 10-year period is estimated at $586,410 undiscounted, or $500,220 and $411,870 at 3- and 7-percent discount rates, respectively. The annualized cost savings over the 10-year period is $58,641 at both 3- and 7-percent discount rates.

Relative to the baseline (*i.e.,* current practice under the TAA Program), the two issues described above are expected to result in average annual undiscounted cost savings of $75,316. The total cost savings over the 10-year period is estimated at $753,160 undiscounted, or $642,461 and $528,988 at 3- and 7-percent discount rates, respectively. The annualized cost savings over the 10-year period is estimated at $75,316 at both 3- and 7-percent discount rates.

Transfer Payments

The following sections describe the transfer payments of this final rule.

Quantifiable Transfer Payments

a. Merit Versus Non-Merit Staff

Currently, States must engage only State merit staff to perform TAA-funded functions undertaken to carry out the State's responsibilities under the Act (20 CFR 618.890). Non-merit staff that provide employment and case management services to trade-affected workers cannot charge their time to TAA Program funds.

In this final rule, the provision at § 618.890 on staffing flexibility amends the previous regulation to clarify that only certain activities under the TAA Program need to be performed by personnel covered by a system meeting the criteria of the Federal merit personnel system regardless of whether they are funded by the TAA Program. This results in a transfer payment because non-merit staff will be performing the same work at a lower wage than the currently used merit staff. As a result, providing employment and case management services by non-merit staff will result in transfer payments from employees to the States because there are no labor-hours freed and only a decline in wages.

The Department estimates that half the States, and therefore half the participants in the TAA Program, will take advantage of the flexibility provided by this final rule.

The Department estimates that the cost of providing employment and case management services by State merit staff is $8,382,397 annually.[33] The

The Department estimates an investigator spends 100 percent of his or her time, or 2,080 hours, processing petitions. The investigator processes 85 petitions per year. Therefore, the cost per petition for an investigator to process is estimated by multiplying the hourly compensation rate ($68.02 per hour) by the hours the investigator works per year (2,080 hours) and dividing by the number of petitions processed per year (85 petitions per year). This results in a cost per petition for an investigator of $1,664. The Department estimates a Certifying Officer manager spends 75 percent of his or her time (1,560 hours) and a nonmanager Certifying officer spends 100 percent of his or her time (2,080 hours) processing petitions. Certifying Officers process an estimated 317 full petitions per year. Based on these data, a manager Certifying Officer spends 5 hours per petition (1,560/317) and a nonmanager Certifying Officer spends 7 hours per petition (2,080/317). The Department uses an average of nonmanager and manager hours per petition to estimate the average Certifying Officer's time to process a petition (6 hours). To estimate the cost per petition for a Certifying Officer, the Department multiplied the hourly compensation rate ($114.55 per hour) by the number of hours spent processing a full petition (6 hours). This results in a cost per petition for a Certifying Officer of $687.

The Department, therefore, estimates the full cost of processing a full petition as the sum of the cost for an investigator to process a petition and the cost for a Certifying Officer to process a petition. Summing these costs results in an estimated cost of $2,351 to process a petition. The cost per reconsideration is, therefore, estimated as $2,022 based on the cost per reconsideration being 86 percent of the cost of processing a full petition.

[32] The cost per appeal is estimated from the cost to the appellant, the Department, and the USCIT to process an appeal. Based on USCIT court fees (*https://www.cit.uscourts.gov/sites/cit/files/Schedule%20of%20Fees.pdf*), the appellant must pay fees for attorney admission ($81), a filing fee ($400), and a charge for each type of fee ($304) for a total of $785 in fees to appeal. The appellant also must have a private sector attorney prepare for the appeal and appear in court. The Department estimates this cost by multiplying the hourly compensation rate ($118.72 per hour) by the sum of time the private sector attorney must spend to prepare (40 hours) and the time spent in court (12 hours). These estimates include time spent responding to filings and other actions outside of court proceedings. The result is a cost per appeal for the appellant of $6,958.

The Department has a cost per appeal for a DOL and DOJ attorney to prepare and attend court, and a remand cost. The Department estimates the remand cost by multiplying the current cost per reconsideration ($2,022) by 1.5, resulting in a remand cost of $3,033. To estimate the cost of a DOL and DOJ attorney, the Department multiplied the hourly compensation rate ($121.28 per hour) by the sum of time the DOL and DOJ attorney must spend to prepare (40 hours) and the time spent in court (12 hours). The result is a cost of $6,306 for a DOL and DOJ attorney. The sum of the remand cost ($3,033) and the cost for a DOL and DOJ attorney ($6,306) yields a cost per appeal for the Department of $9,339.

The cost to the USCIT is the court time for a district court judge and district court clerk. The Department estimates the cost of court time for a judge by multiplying the hourly compensation rate ($182.50 per hour) by the time spent in court and the time spent reviewing the filings related to the appeal (12 hours), resulting in a cost estimate of $2,190. The Department estimates the cost of court time for a clerk by multiplying the hourly compensation rate ($88.31 per hour) by the time spent in court (12 hours), resulting in a cost estimate of $1,060. The cost to the USCIT for an appeal is therefore estimated as $3,250.

The cost per appeal is therefore estimated as the sum of the cost to the appellant ($6,958), the cost to the Department ($9,339), and the cost to the USCIT ($3,250). This cost is $19,547.

[33] To estimate the cost of State merit staff providing employment and case management

Department estimates the cost of providing employment and case management services by non-merit staff is $6,584,544 annually, due to the lower hourly wage for the typical non-merit staff employee.[34] The Department, therefore, estimates transfer payments associated with removing the restriction to allow States to charge time for non-merit staff to TAA Program funds by subtracting the cost of non-merit staff ($6,584,544) from the cost of State merit staff ($8,382,397) and multiplying by 0.5 to account for the Department's estimate that half the States will use the flexibility provided by this final rule. This yields average annual undiscounted transfer payments of $898,927. The total transfer payments from removing the restriction to allow States to charge time for non-merit staff to TAA Program funds over the 10-year period is estimated at $8,989,265 undiscounted, or $7,668,025 and $6,313,684 at 3- and 7-percent discount rates, respectively. The annualized cost savings over the 10-year period is $898,927 at both 3- and 7-percent discount rates.

Nonquantifiable Transfer Payments

a. Change in the Definition of ''Group''

Under § 618.110 (definition of ''group of workers'') in this final rule, the Department updates the definition of ''group'' to mean at least two workers employed or formerly employed by the same firm, or an appropriate subdivision. The definition also includes teleworkers and staffed workers, because they are frequently performing the same work as other trade-affected workers in the subject firm or subdivision and are under the subject firm's control. Separated workers are included in the definition because they, too, may be trade-affected workers. Because of a lack of data on the additional number of beneficiaries, the Department is unable to quantify the transfer. The Department expects the change to be small.

b. Suitable Work Versus Suitable Employment

In this final rule, the provision at § 618.400 explains the scope of the subpart, and is a provision not contained in current regulations. The provision at § 618.400 contains one substantive departure from current regulations in that it identifies the goal of providing job search and relocation allowances to help AAWs secure and, if necessary, relocate to ''suitable employment'' as defined in section 236 of the Act, instead of merely assisting AAWs in finding ''suitable work'' as current regulations have provided. In this final rule, the language at § 618.405 contains general provisions and revises and consolidates current 20 CFR 617.30 and 617.40. The provision at § 618.405(a) retains the content in 20 CFR 617.30, except that it replaces the reference to ''securing a job'' with ''suitable employment'' to align with the change to the goal of the subpart.

This change modifies the eligibility requirement, for both job search and relocation allowances, that there be no ''suitable work'' available in the local area to the requirement that there be no ''suitable employment'' available in the local area. ''Suitable employment'' is generally work at higher skill levels and wage rates than is ''suitable work'' (*i.e.,* a job is less likely to meet the higher ''suitable employment'' standard and such jobs will, therefore, be less likely to be available). Thus, this change will simplify the operation of the TAA Program by using the same standard—suitable employment—as the factor for approval of training, job search allowances, and relocation allowances. Program performance data show that AAWs who relocate have a wage replacement rate exceeding 100 percent, which means that this change should have little or no impact on the number of AAWs and is not quantifiable.

c. Length of Training and Apprenticeships

In this final rule, the language at § 618.635(c) is new and establishes apprenticeship provisions that specifically provide that both registered apprenticeships under the NAA, as well as other training programs that include a paid work-based learning component and required educational or instructional component that results in the issuance of a recognized postsecondary credential, are approvable TAA Program training activities. These provisions are based on a combination of section 236(a)(5)(A)(iii) and (G) of the Act. The requirement that an apprenticeship lead to an industry-recognized credential differentiates an apprenticeship from regular OJT.

This final rule will revise TAA Program length of training requirements applicable to apprenticeships. In addition, under this final rule, TAA Program funds can be used to pay for the educational and instructional component of the apprenticeship until completion of the apprenticeship, which, in some cases, could be up to 5 years. In particular, the TAA Program will provide for reimbursement to the employer for the paid-work component of the apprenticeship for up to 130 weeks. Reimbursement can be up to 50 percent of the employer's training costs based on the wage rate of the trade-affected worker.

The increased flexibility in the use of TAA Program funds may result in an increase in apprenticeships; however, the Department is unable to quantify this and sought public comment. The Department received no comments on this issue. The Department expects that funding adjustments will need to be made for trade-affected workers requiring additional funding due to participation in a registered apprenticeship. In this final rule, the provision would result in transfers of funds between States and the Federal Government. The total amount of expenditures that may be accrued at the national level, however, will not change and is therefore not quantified.

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services, the Department first estimated the amount of time spent providing the services. Of the 16,026 total exiters, on average, in FYs 2017–2019, 9,331 received training and 6,706 received only case management services. The average duration of training is 421 days, and the average duration of case management services is 263 days. Staff have a minimum contact requirement of 30 days, and contact is estimated to take 1 hour. Therefore, the Department estimated the time spent by staff providing training services to an exiter by dividing the average duration of training (421 days) by the minimum contact requirement (30 days) and multiplying by the time of contact (1 hour), resulting in an estimate of 14 hours. The Department, therefore, estimates the hours required for training services to all exiters that received training by multiplying the number of exiters receiving training (9,331) by the time spent by staff providing them services (14 hours), resulting in an estimate of 130,634 hours. The Department estimated the time spent by staff providing case management services only to an exiter by dividing the average duration of case management (263 days) by the minimum contact requirement (30 days) and multiplying by the time of contact (1 hour), resulting in an estimate of 8.8 hours per exiter receiving case management services. The Department, therefore, estimates the hours required for case management services to all exiters that received case management services only by multiplying the number of exiters receiving only case management services (6,706) by the time spent by staff providing them services (8.8 hours), resulting in an estimate of 59,013 hours.

To estimate the cost of State merit staff providing employment and case management services, the Department summed the time required to provide training services (130,634 hours) and the time required to provide case management services only (59,013 hours), which results in a total of 189,647 hours. The Department then multiplied the total hours by the hourly compensation rate of a State employment counselor ($44.20 per hour) resulting in a cost estimate of $8,382,397.

[34] To estimate the cost of non-merit staff in providing employment and case management services, the Department summed the time required to provide training services (130,634 hours) and the time required to provide case management services only (59,013 hours), which results in a total of 189,647 hours. The Department then multiplied the total hours by the hourly compensation rate of a private sector employment counselor ($34.72 per hour), resulting in a cost estimate of $6,584,544.

Other Key Changes With No Economic Impact

TGAAA and TAAEA introduced statutory program changes, and the TAARA 2015 amendments restored these improvements. This final rule codifies the provisions associated with these improvements, currently implemented via administrative guidance, into the TAA Program regulations. The Department analyzed these provisions to determine if they have any additional cost or result in transfer payments when compared to the baseline. Based on this analysis, the Department has determined that no costs or transfer payments are associated with the program improvement provisions.

a. A set of provisions requiring services to all trade-affected workers, including AAIWs who have not yet separated from adversely affected employment but are threatened with separation (subpart A, § 618.110; subpart C, § 618.310; and subpart F, § 618.655).

Under this set of provisions, AAIWs must be provided TAA Program services, as appropriate, before the worker's separation from employment, ideally allowing these workers to transition to new employment without experiencing a gap in employment or by reducing the amount of time needed to complete the training program after the separation, or both, and reducing the worker's overall period of unemployment. Under the current regulations, the Department could not begin providing services to serve AAIWs until they are laid off. No costs or transfer payments are associated with these provisions, as they are codifying current administrative guidance.

b. Provisions that expand trade-affected worker eligibility to include those workers in firms that supply service-sector workers, expanding coverage to the largest growing sector of the economy (subpart B, § 618.225(a) and (b)).

No costs or transfer payments are associated with these provisions, as they are codifying current administrative guidance.

c. Provision that makes workers in firms identified in ITC ''injury'' determinations ''automatically'' certified (subpart B, § 618.225(c)).

No costs or transfer payments are associated with this provision, as it is codifying current administrative guidance.

d. Provisions providing funding for individualized case management services (subpart C, §§ 618.310, 618.330, 618.335, 618.345, 618.350, and 618.360).

Employment counseling and reemployment services have been required under the TAA Program since implementation of chapter 2 of title II of the Act. The current requirements are found at 20 CFR 617.20 and 617.21. This set of provisions includes the development of an IEP and assessments. The language in the previous regulation, however, uses outdated terminology and this final rule updates it. Case managers are to ensure trade-affected workers receive job placement services, develop individual assessment-based employment and training programs, and provide career counseling. Under the current regulations, funds for individualized case management services are not authorized, requiring these services to be made available through partner programs, such as Wagner-Peyser or WIOA. No costs or transfer payments are associated with these provisions, as they are codifying current administrative guidance.

e. Provisions that eliminate the requirement for AAWs to apply for and wait to attain a separate group certification to be eligible for the RTAA program (subpart E, §§ 618.500 and 618.505).

AAWs receiving RTAA can work full time or part time and receive training, which will allow this population to regain skills to stay competitive. RTAA replaces ATAA, a program piloted in the TAA Program under TAARA 2002. Neither RTAA nor ATAA are included in current regulations. No costs or transfer payments are associated with these provisions, as they are codifying current administrative guidance.

f. Provisions that introduce Completion TRA and require trade-affected worker training benchmarks to monitor training progress regularly and allow for amendments of a training program to help ensure successful training outcomes (subpart F, § 618.660; and subpart G, § 618.755).

No costs or transfer payments are associated with these provisions, as they are codifying current administrative guidance.

g. A provision that eliminates training waivers based on recall, marketable skills, and retirement (subpart G, § 618.725(b)).

No costs or transfer payments are associated with this provision, as it is codifying current administrative guidance.

h. A set of provisions that expands the deadline for enrolling in training to qualify for TRA, providing trade-affected workers more time to consider their training options (subpart G, § 618.720(c)(1), (2), and (4)).

No costs or transfer payments are associated with these provisions, as they are codifying current administrative guidance.

i. A provision that allows States to apply Federal ''good cause'' waiver provisions to TAA Program deadlines allowing for trade-affected workers to retain benefits due to extenuating circumstances (subpart G, § 618.720(c)(5)).

This provision allows States to apply Federal ''good cause'' waiver provisions to TAA Program deadlines allowing for trade-affected workers to retain benefits due to extenuating circumstances. No costs or transfer payments are associated with this provision, as it is codifying current administrative guidance.

j. Subpart G, § 618.775.

This provision enables AAWs to elect TRA over UI based on a second UI claim in circumstances that result in lower WBAs from part-time or short-term work. No costs or transfer payments are associated with this provision, as it is codifying current administrative guidance.

Qualitative Benefits Discussion

The TAA Program includes the RTAA benefit, which may be available to AAWs 50 years of age or older. Reauthorization of the program restored the major expansions in TAA Program worker group eligibility to service sector workers and to workers affected by trade from any country, including countries that do not have Free Trade Agreements with the United States including China and India.

A 2012 evaluation of the TAA Program showed that TAA Program participants who undertook training recorded better employment outcomes than those who received only income support and that TAA Program participants almost entirely closed the gap between their wages in the previous employment and their wages in the new employment within 4 years, and, by one measure, had pulled slightly ahead.[35] The evaluation also found that TAA Program participants were engaged in some form of productive activity at about the same rate as the comparison group.

a. Streamlining and Consolidation of TAA Program Regulations

As stated above, the regulations governing the TAA Program have not been updated since 1994. Since that

[35] Social Policy Associates and Mathematica Policy Research. (2012). ''The Evaluation of the Trade Adjustment Assistance Program: A Synthesis of Major Findings.'' Retrieved from: *https://wdr.doleta.gov/research/FullText_Documents/ETAOP_2013_08.pdf.*

time, multiple amendments have occurred. All TAA Program amendments were implemented through administrative guidance. As a result, the States must use a combination of regulations and a patchwork of administrative guidance to operate the program.

This final rule provides a legally binding set of rules to guide the worker-group certification process at the Federal level and the individual benefit and training authorization process at the State level, and provides Federal and State courts with the Department's authoritative interpretation of TAARA 2015. This final rule also updates the TAA Program and consolidates all applicable program regulations into a single section of the CFR.

b. Support to American Workers That Have Lost Their Jobs as a Result of Foreign Trade

The objective of the TAA Program is to provide trade-affected workers with opportunities to obtain the skills, credentials, resources, and support necessary to (re)build skills for future jobs. For over 40 years, the TAA Program has assisted U.S. workers who have lost or may lose their jobs as a result of foreign trade. Benefits and services include: Employment and case management services (*e.g.,* career counseling); training; out-of-area job search and relocation allowances; income support through TRA; RTAA for AAWs aged 50 and older; and, if available, the HCTC.

Since 1975, the TAA Program has served over 2 million U.S. trade-affected workers. In FY 2017, an estimated 94,017 trade-affected workers became eligible for TAA Program benefits and services. Nearly 75 percent of trade-affected workers obtained employment within 6 months of completing the TAA Program, and over 90 percent of those who found work retained their jobs 6 months later.

Trade-affected workers come from a variety of backgrounds and industries, and therefore, many enter the program with a wide array of skills and experience. Most trade-affected workers who enter the program, however, face similar challenges in obtaining reemployment. Trade-affected workers have no postsecondary degree typically, an average age of 49, and an average of 12 years of experience in a specific job that may no longer exist.[36] The TAA Program is designed to serve the needs of this unique population best, which it continues to do.

An ever-changing global marketplace drives the 21st-century economy. For America to outcompete other countries, its workers need to have the skills and support to take advantage of new opportunities the 21st-century economy presents. The TAA Program sets out to do that by providing the best opportunities for American workers to reenter the workforce.

5. Summary of the Analysis

Exhibit 4 summarizes the estimated total costs, cost savings, and transfer payments of this final rule over the 10-year analysis period. The annual costs, cost savings, and transfer payments do not reach $100 million in any given year. Thus, this final rule is not economically significant.

The Department estimates the annualized costs of this final rule at $5,596, the annualized cost savings at $75,316, and the annualized transfer payments at $898,927, at the 7-percent discount rate.

The Department estimates the net cost savings of this final rule at $597,559 at a discount rate of 3 percent and $489,683 at a discount rate of 7 percent.

EXHIBIT 4—ESTIMATED MONETIZED COSTS, COST SAVINGS, NET COST SAVINGS, AND TRANSFER PAYMENTS OF THE NPRM

[2019 dollars]

	Costs	Cost savings	Net cost savings [a]	Transfer payments
2020	$12,173	$75,316	$63,143	$898,927
2021	14,187	75,316	61,129	898,927
2022	2,979	75,316	72,337	898,927
2023	2,979	75,316	72,337	898,927
2024	2,979	75,316	72,337	898,927
2025	2,979	75,316	72,337	898,927
2026	2,979	75,316	72,337	898,927
2027	2,979	75,316	72,337	898,927
2028	2,979	75,316	72,337	898,927
2029	2,979	75,316	72,337	898,927
Undiscounted 10-Year Total	50,192	753,160	702,968	8,989,265
10-Year Total with 3% Discounting	44,902	642,461	597,559	7,668,025
10-Year Total with 7% Discounting	39,305	528,988	489,683	6,313,684
10-Year Average	5,019	75,316	70,297	898,927
Annualized with 3% Discounting	5,264	75,316	70,052	898,927
Annualized with 7% Discounting	5,596	75,316	69,720	898,927
Perpetuated Net Cost Savings [a] with 7% Discounting (2016 dollars)	$50,902			

[a] Net Cost Savings = [Total Cost Savings] − [Total Costs]; discounted four years to reflect that the changes take effect in 2020.

6. Regulatory Alternatives

OMB Circular A–4, which outlines best practices in regulatory analysis, directs agencies to analyze alternatives if such alternatives best satisfy the philosophy and principles of E.O. 12866. The Department has considered three alternatives as part of determining whether to issue this final rule. These alternatives include: (1) To take no action; that is, make no regulatory changes; (2) to reduce the number and types of provisions in the regulations; and (3) to propose more stringent, less flexible regulations and provide clarification in administrative guidance. Each alternative is discussed in more detail below.

[36] U.S. Department of Labor, ETA. (2018). ''Trade Adjustment Assistance for Workers Program: Fiscal Year 2017.'' Retrieved from: *https://www.doleta.gov/tradeact/docs/AnnualReport17.pdf.*

The Department considered the ''no action'' alternative, thereby, leaving the regulations in three separate parts in the CFR (*i.e.,* 20 CFR parts 617 and 618, and 29 CFR part 90) and continuing to use administrative guidance to operate the TAA Program. This alternative has the disadvantage of forcing States to use a combination of outdated regulations and a patchwork of administrative guidance to operate the program. The TAA Program requirements have changed substantially since 1994. As a result, the implementation of new regulations is necessary to achieve program compliance, integrate the TAA Program with the workforce development and education systems, and reduce the Department's and States' legal burden concerning petition issues raised in court cases and appeals.

The Department also considered scaling back the number and types of provisions in the regulations, except for those areas where there are statutory requirements for the Department to promulgate regulations. Examples of provisions that could be excluded are: (1) The primary indicators of performance; (2) the expansion of State responsibility for providing employment and case management services; (3) the integration of the TAA Program into the one-stop delivery system under WIOA and alignment with the WIOA Final Rule; (4) the increase in the maximum limit for job search and relocation allowances; (5) the addition of the RTAA, which was established under the 2009 Program amendments; (6) the addition of Completion TRA; and (7) the study and notifications regarding certain affirmative determinations. This regulatory alternative has the disadvantage of forcing the regulated community to follow statutory language for implementation. Considering many of these provisions are new, the statutory language would not provide sufficient detailed guidance to implement the provisions effectively, thereby, increasing the risk of noncompliance.

Finally, the Department considered proposing more stringent, less flexible regulations and relying on administrative guidance to provide clarification. Examples of provisions where the Department could be more prescriptive are: (1) Worker group eligibility requirements (2) employment and case management services; (3) training (*e.g.,* approval, cost, and type); (4) job search and relocation allowances; (5) Completion TRA and training benchmarks; and (6) RTAA. This alternative has the disadvantage of not providing enough flexibility to mold the TAA Program to the evolving needs of displaced workers and the changing economic landscape. Not only could this negatively impact trade-affected workers, it could cost States and the Department more through decreases in efficiency from having to adhere to more restrictive and complex regulations. This would ultimately lead to workers being underserved due to the time and budgetary burdens that more stringent regulations would impose. Also, administrative guidance is not legally binding, and, therefore, not as an effective tool as flexible regulations.

The Department considered the three options above in accordance with the provisions of E.O. 12866 and chose to publish this final rule to increase flexibility to States and trade-affected workers, improve outcomes, clarify overly technical or confusing language, update references and procedures, and codify elements from administrative guidance.

As discussed in Section IV.B.3 above, the Department received one comment on the regulatory alternatives. This comment is addressed in that section with the other discussions of public comments.

C. Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act of 1996, and Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking)

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (Mar. 29, 1996), requires Federal agencies engaged in rulemaking to consider the impact of their proposals on small entities, consider alternatives to minimize that impact, and solicit public comment on their analyses. The RFA requires the assessment of the impact of a regulation on a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions. Agencies must perform a review to determine whether a proposed or final rule would have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603 and 604.

Because the entities impacted by this final rule are the States, which do not qualify as small entities, the Department has determined that this final rule does not impact small entities. Based on this determination, the Department certifies that this final rule does not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act (PRA)

The purposes of the PRA, 44 U.S.C. 3501 *et seq.,* include minimizing the paperwork burden on affected entities. The PRA requires certain actions before an agency can adopt or revise a collection of information, including publishing for public comment a summary of the collection of information and a brief description of the need for and proposed use of the information.

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the PRA. See 44 U.S.C. 3506(c)(2)(A). This activity helps to ensure that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

In accordance with the requirements of PRA the proposed regulation solicited comments on the ICs included therein.

A Federal agency may not conduct or sponsor a collection of information unless it is approved by OMB under the PRA and displays a currently valid OMB control number. The public also is not required to respond to a collection of information unless it displays a currently valid OMB control number. In addition, notwithstanding any other provisions of law, no person will be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512(a)(1)).

The following ICs are part of the States' administration of the TAA Program. They have been previously reviewed and approved. They have not been impacted by this rule:

OMB Control Number 1205–0275—Trade Adjustment Assistance Program Reserve Funding Request

OMB Control Number 1205–0222—Unemployment Insurance Materials Transmittal

OMB Control Number 1205–0521—DOL-Only Performance Accountability, Information, and Reporting System

OMB Control Number 1205–0461—Employment and Training Administration Financial Report Form ETA–9130

The Department has determined that there is a new IC contained in this rule. This collection is related to an aggrieved party seeking administrative reconsideration of a negative determination under section 222 of the Act, and the domestic industry study required by section 202 of the Act.

In accordance with the requirements of PRA the proposed regulation solicited comments on this new IC. The **Federal Register** Notice announcing the proposed rule announced a 60-day comment period for this new IC. The IC comment period closed on January 6, 2020. The Department received two timely comments but they did not address the IC. The comments received on the proposed IC may be viewed at *https://www.regulations.gov* by entering docket number ETA–2019–0009.

Petition Requirements; Investigations; Domestic Industry Study; Application for Reconsideration

Agency: DOL–ETA.

Title of Collection: Petition Requirements; Investigations; Domestic Industry Study; Application for Reconsideration.

Type of Review: New.

OMB Control Number: 1205–0NEW.

Description: The information contained in this collection is submitted by various parties, including individuals, company officials, unions, and State agencies. This information is collected in paper, by fax, via online forms, and by email. The information provided by these groups is used as part of an investigation by the Department to determine whether or not a group of workers has been adversely affected by foreign trade under the conditions and criteria established in section 222 of the Act. The Department is taking this opportunity to make changes to the forms in OMB Control Number 1205–0342 used in the petition and investigation process. These changes are designed to reduce burden, provide better instructions, and simplify the forms for use by the public. Form ETA–9185 is a new form used by aggrieved parties to seek administrative reconsideration of a negative determination. As part of this collection, the Department is reactivating Form ETA–8561 A/B/C, Standard, by renaming as Form ETA–8561, Study of Domestic Industry, and revising the content of the form. This was previously approved under OMB Control Number 1205–0194, and was in use until 1990 when it was discontinued. Form ETA–8561 is submitted by a firm within an industry subject to an investigation by the ITC under section 202 of the Act. This collection will eventually be included in OMB Control Number 1205–0342; specifically, once all of the outstanding actions are complete, the Department intends to submit a nonmaterial change request to merge the collections so that the new requirements will be added to OMB Control Number 1205–0342. Once the nonmaterial change request has been approved by OMB, the new collection will be discontinued.

Affected Public: State, Local, and Tribal Governments.

Obligation to Respond: Required to Obtain or Retain Benefits.

Estimated Total Annual Respondents: 5,317.

Estimated Total Annual Responses: 5,497.

Estimated Total Annual Burden Hours: 12,977.

Estimated Total Annual Other Burden Costs: $1,266,937.93.

Regulations Sections: 20 CFR 618.205, 618.210, 618.215, 618.220, 618.225, 618.230, 618.235, 618.240, 618.245, 618.250, 618.260.

Interested parties may obtain a copy free of charge of one or more of the ICRs submitted to OMB on the reginfo.gov website at *http://www.reginfo.gov/public/do/PRAMain.* From this web page select Department of Labor from the ''Currently under Review'' dropdown menu and look up the collection. You also may request a free copy of the IC by contacting the person named in the **ADDRESSES** section of this preamble.

E. Executive Order 13132 (Federalism)

E.O. 13132 requires Federal agencies to ensure that the principles of federalism established by the Framers of our Constitution guide the executive departments and agencies in the formulation and implementation of policies and to further the policies of the Unfunded Mandates Reform Act (UMRA). Further, agencies must strictly adhere to constitutional principles. Agencies must closely examine the constitutional and statutory authority supporting any action that would limit the policy-making discretion of the States and they must carefully assess the necessity for any such action. To the extent practicable, State and local officials must be consulted before any such action is implemented. Section 3(b) of the E.O. further provides that Federal agencies must implement regulations that have a substantial direct effect only if statutory authority permits the regulation and it is of national significance.

The Department has reviewed this final rule revising the operation of a Federal benefit program in accordance with E.O. 13132 and found that this rulemaking has no federalism implications. The TAA Program is a nationwide program funded with Federal funds in which the States voluntarily participate. Thus, this final rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, within the meaning of the Executive Order.

F. Unfunded Mandates Reform Act of 1995

UMRA (Pub. L. 104–4, codified at 2 U.S.C. 1501 *et seq.*) requires agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments and on private industry, except to the extent the regulations incorporate requirements specifically set forth in law. Title II of the UMRA directs agencies to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in $100 million or more expenditure (adjusted annually for inflation) in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector. A Federal mandate is any provision in a regulation that imposes an enforceable duty upon State, local, or tribal governments, or imposes a duty on the private sector that is not voluntary.

As explained in Section V.B above, this final rule does not include any Federal mandate that could result in increased expenditure by State, local, and tribal governments in the aggregate of more than $100 million, or increased expenditures by the private sector of more than $100 million. State governments administer the TAA Program as agents of the United States and are provided appropriated Federal funds for all TAA Program expenses.

G. Executive Order 13175 (Indian Tribal Governments)

E.O. 13175 addresses the unique relationship between the Federal Government and Indian tribal governments. It requires Federal agencies to take certain actions when regulations have tribal implications. Required actions include consulting with tribal governments prior to promulgating a regulation with tribal implications and preparing a tribal impact statement. E.O. 13175 defines regulations as having ''tribal implications'' when they have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of

power and responsibilities between the Federal Government and Indian tribes. Because this final rule addresses the worker-certification process at the Federal level, the individual benefit and training authorization process at the State level, State administration of the TAA Program, and the Department's distribution of TAA Program funds to the States, the Department concludes that it does not have tribal implications.

List of Subjects

20 CFR Part 617

Administrative practice and procedure, Employment, Fraud, Grant programs—Labor, Manpower training programs, Relocation assistance, Reporting and recordkeeping requirements.

20 CFR Part 618

Administrative practice and procedure, Employment, Fraud, Grant programs—Labor, Manpower training programs, Relocation assistance, Reporting and recordkeeping requirements, Trade adjustment assistance.

29 CFR Part 90

Administrative practice and procedure, Grant programs—labor, Reporting and recordkeeping requirements, Trade adjustment assistance.

Under the authority of 19 U.S.C. 2320(a) and for the reasons discussed in the preamble, the Department of Labor amends 20 CFR parts 617 and 618 and 29 CFR part 90 as follows:

PART 617—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS UNDER THE TRADE ACT OF 1974

■ 1. Revise the authority citation for 20 CFR part 617 to read as follows:

Authority: 19 U.S.C. 2320; Secretary's Order No. 6–2010, 75 FR 66267 (Oct. 27, 2010).

Appendices A, B, and C to Part 617—[Transferred to Part 618 and Redesignated]

■ 2. Transfer appendices A, B, and C to part 617 to part 618 and redesignate the appendices as appendices A, B, and C to part 618.

PART 617—[REMOVED AND RESERVED]

■ 3. Remove and reserve part 617.

■ 4. Revise part 618 to read as follows:

PART 618—TRADE ADJUSTMENT ASSISTANCE UNDER THE TRADE ACT OF 1974, AS AMENDED

Subpart A—General

Sec.

618.100 Purpose and scope.
618.110 Definitions.
618.120 Severability.

Subpart B—Petitions, Investigations, and Determinations

618.200 Scope.
618.205 Petitions.
618.210 Investigation.
618.215 Public hearings.
618.220 Use of subpoena.
618.225 Criteria for certification of a group of workers.
618.230 Evidence.
618.235 Determinations.
618.240 Termination of certification.
618.245 Reconsideration of termination of an investigation, denial, or termination or partial termination of certification.
618.250 Amendments of certifications.
618.255 Judicial review of determinations.
618.260 Study regarding certain affirmative determinations by the Commission.
618.265 Availability of information to the public.

Subpart C—Employment and Case Management Services

618.300 Scope.
618.305 The Trade Adjustment Assistance Program as a one-stop partner.
618.310 Responsibilities for the delivery of employment and case management services.
618.325 Integrated service strategies and Workforce Innovation and Opportunity Act co-enrollment.
618.330 Assessment of trade-affected workers.
618.335 Initial assessment of trade-affected workers.
618.345 Comprehensive and specialized assessment of trade-affected workers.
618.350 Individual employment plans for trade-affected workers.
618.355 Knowledge, skills, and abilities of staff performing assessments.
618.360 Employment and case management services for trade-affected workers in training.

Subpart D—Job Search and Relocation Allowances

618.400 Scope.
618.405 General.
618.410 Applying for a job search allowance.
618.415 Eligibility for a job search allowance.
618.420 Findings required for a job search allowance.
618.425 Amount of a job search allowance.
618.430 Determination and payment of a job search allowance.
618.435 Job search program participation.
618.440 Applying for a relocation allowance.
618.445 Eligibility for a relocation allowance.
618.450 Findings required for a relocation allowance.
618.455 Determining the amount of a relocation allowance.
618.460 Determinations and payment of a relocation allowance.

Subpart E—Reemployment Trade Adjustment Assistance

618.500 Scope.
618.505 Individual eligibility.
618.510 Eligibility period for payments of Reemployment Trade Adjustment Assistance and application deadline.
618.515 Continuing eligibility and timing of payments.
618.520 Benefits available to eligible adversely affected workers.
618.525 Determinations, redeterminations, and appeals.
618.530 Reductions of Reemployment Trade Adjustment Assistance payments; priority of payments.

Subpart F—Training Services

618.600 Scope.
618.605 General procedures.
618.610 Criteria for approval of training.
618.615 Limitations on training approval.
618.620 Selection of training program.
618.625 Payment restrictions for training programs.
618.630 Training of reemployed trade-affected workers.
618.635 Work-based training.
618.640 Supplemental assistance.
618.645 Voluntary withdrawal from a training program.
618.650 State standards and procedures for establishing reasonable cost of training.
618.655 Training for adversely affected incumbent workers.
618.660 Training benchmarks.
618.665 Amending approved training.

Subpart G—Trade Readjustment Allowances

618.700 Scope.
618.705 Definitions.
618.710 Categories of Trade Readjustment Allowances.
618.715 Applications for Trade Readjustment Allowances and payment.
618.720 Qualifying requirements for Basic Trade Readjustment Allowances.
618.725 Training enrollment deadlines.
618.730 Good cause.
618.735 Waiver of training requirement for Basic Trade Readjustment Allowances.
618.740 Evidence of qualification for Basic, Additional, and Completion Trade Readjustment Allowances.
618.745 Weekly amounts of Basic, Additional, and Completion Trade Readjustment Allowances.
618.750 Maximum amount of Basic Trade Readjustment Allowances.
618.755 Eligibility period for Basic Trade Readjustment Allowances.
618.760 Qualifying requirements for, and timing and duration of, Additional Trade Readjustment Allowances.
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Authority: 19 U.S.C. 2320; Secretary's Order No. 6–2010, 75 FR 66267 (Oct. 27, 2010).

Subpart A–General

§ 618.100 Purpose and scope.

(a) *Purpose.* The Act establishes a Trade Adjustment Assistance for Workers (TAA) Program. The goal of the TAA Program is to help each worker participating in the program obtain suitable employment whenever possible, and to return to employment as quickly as possible.

(b) *Scope.* Global trade impacts thousands of workers each year across the United States. The TAA Program provides trade-affected workers with opportunities to obtain the skills, credentials, resources, and support necessary to become reemployed in a good job. The TAA Program's benefits and services include: employment and case management services, training, out-of-area job search and relocation allowances, income support through Trade Readjustment Allowances (TRA), the Reemployment Trade Adjustment Assistance (RTAA) benefit for workers aged 50 or older who find qualifying reemployment, and, if available, the Health Coverage Tax Credit (HCTC). Together with its workforce development partners in the one-stop delivery system authorized under the Workforce Innovation and Opportunity Act (WIOA), the TAA Program helps retrain, retool, and rebuild the American workforce. This part 618 applies for all workers determined eligible to apply for TAA except for those covered under certain provisions of the Trade Adjustment Assistance Reform Act of 2002 and the Trade and Globalization Adjustment Assistance Act of 2009, for which administrative guidance will continue to apply.

(c) *Effect.* The regulations in this part are issued to implement the Act.

§ 618.110 Definitions.

The following definitions apply solely in this part.

Act means chapter 2 of title II of the Trade Act of 1974, Public Law 93–618, 88 Stat. 1978 (19 U.S.C. 2271–2323 and 2395), as amended.

Administrator means the Administrator, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Washington, DC, who has responsibility for administering the TAA Program, or his or her designee.

Adversely affected employment means employment in a firm or appropriate subdivision, if workers of the firm or appropriate subdivision are certified as eligible to apply for the TAA Program under subpart B of this part.

Adversely affected worker or *AAW* (also referred to, in combination with an AAIW, as a trade-affected worker) means an individual, including an employer, who, because of lack of work in adversely affected employment, has been totally or partially separated from such employment.

Adversely affected incumbent worker or *AAIW* (also referred to, in combination with an AAW, as a trade-affected worker) means a worker who:

(1) Is a member of a worker group certified as eligible to apply for the TAA Program under subpart B of this part;

(2) Has not been totally or partially separated from adversely affected employment; and

(3) The Department determines, on an individual basis, is threatened with total or partial separation.

Agent State means a State, other than a liable State, that provides benefits or services to a trade-affected worker. A State can be both an agent State and a liable State.

Applicable State law means, for any worker, the State law of the State:

(1) In which such worker is entitled to Unemployment Insurance (UI) (whether or not such worker has filed a UI claim) immediately following such worker's first separation; or

(2) If the worker is not so entitled to UI under the State law of any State immediately following such first separation, or is entitled to UI under the Railroad Unemployment Insurance Act (RRUI), the State law of the State in which such first separation occurred.

Appropriate subdivision means an establishment, facility or facilities, an organizational department, a product line, a project team, an operational unit, or part or combination thereof. The appropriate subdivision is determined on a case-by-case basis and includes all workers or a subset of workers working at, or reporting to, the location(s) identified in the petition, or subsequently identified during the course of the investigation, whose employment is dependent upon the production of the specific article or supply of the specific service identified in the petition, or identified during the course of the investigation.

Appropriate week means the week in which the AAW's first separation occurred.

Approved training or *TAA approved training* means a training program approved under subpart F of this part (§ 618.610).

Article means a tangible good or an intangible good sold or produced by a firm. The good must be the subject of the sale or production, and not an object that is produced incidentally to the sale or production. An article can be measured in individual production units or commercial production units, such as with commodities. Sale of an article is the means by which revenue is generated, accumulated, or calculated.

Average weekly hours means the average hours worked by an AAW (excluding overtime) in the employment from which the worker has been or claims to have been separated in the 52 consecutive calendar weeks (excluding weeks during which the worker was sick or on vacation) immediately

preceding the worker's total separation or, for a partially separated worker, the week before the appropriate week. The average is obtained by dividing:

(1) Total hours worked (excluding overtime) in the 52 consecutive calendar weeks (excluding weeks in such period during which the worker was sick or on vacation); by

(2) The number of weeks in such 52 consecutive calendar weeks (excluding weeks in such period during which the worker was sick or on vacation).

Average weekly wage means one-thirteenth of the total wages paid to an AAW in the high quarter. For purposes of this computation, the high quarter is the quarter in which the worker's total wages were highest among the first 4 of the last 5 completed calendar quarters immediately preceding the week in which total separation occurred or, in cases where partial separation is claimed, the appropriate week.

Benefit period means, with respect to an AAW:

(1) The benefit year and any ensuing period, as determined under the applicable State law, during which the worker is eligible for regular compensation, additional compensation, or extended compensation; or

(2) The equivalent to such a benefit year or ensuing period provided for under Federal UI law.

Certification or *affirmative determination* or *petition certification* means a determination issued under § 618.235(a), or an amendment under § 618.250, of eligibility to apply for the TAA Program, with respect to a specified worker group of a firm or appropriate subdivision. Excluded from this definition are ''certifications'' in sections 223(d), 236(a)(5)(H), 239(a)(3), and 247(19) of the Act, and ''affirmative determinations'' in sections 222(e) and 224 of the Act.

Certification date or *date of certification* means the date on which the Certifying Officer signs the certification. This is the date that the certification takes effect.

Certification period means the period of time during which total, partial, or threat of separations from adversely affected employment within a firm or appropriate subdivision of a firm are covered by a certification for worker groups eligible to apply for assistance under section 222(a) and (b) of the Act. It also means the period of time during which total or partial separations from adversely affected employment within a firm are covered by a certification for worker groups eligible to apply for assistance under section 222(e) of the Act. The certification period begins on the impact date and, unless stated otherwise in the certification, ends 2 years after the certification date. A certification may expire sooner than 2 years after the certification date as a result of a termination under § 618.240, an amendment under § 618.250, or if a certification is based on a determination issued by the International Trade Commission (ITC) under section 222(e) of the Act.

Certifying Officer means an official, including the Administrator of the Office of Trade Adjustment Assistance, Employment and Training Administration, Department of Labor, who has been delegated responsibility to make determinations and issue certifications of eligibility to apply for the TAA Program, and to perform such further duties as may be required.

Co-enrollment means enrollment in the TAA Program and at least one other program that operates as part of the one-stop delivery system, such as the dislocated worker program under title I of WIOA.

Commission or *International Trade Commission* or *ITC* means the U.S. International Trade Commission.

Commuting area means the area in which a trade-affected worker would be expected to travel to and from work on a daily basis as determined under the applicable State law.

Completion of training or *complete training* or *completed training* means that the trade-affected worker has finished all required coursework (including required externships or internships), testing, and professional licensing exams related to TAA approved training.

Component part means an input (tangible or intangible article) that is directly incorporated into the production of another article, although it need not retain its original form or characteristics.

Confidential business information means trade secrets and commercial or financial information received by the Department, or by the States on the Department's behalf, during an investigation under subpart B of this part, which the Department considers to be privileged or confidential as set forth in the Trade Secrets Act (18 U.S.C. 1905), 5 U.S.C. 552(b)(4), or 29 CFR part 70. It does not include publicly available business information, or business information with respect to which the firm or customer submitting the information had notice, at the time of submitting the information, that the information would be released by the Department or the States, or if the firm or customer subsequently consents to the release of the information.

Contributed importantly means a cause that is important but not necessarily more important than any other cause.

Cooperating State agency or *CSA* means the agency at the State level that will act as agent of the Department in receiving applications from and providing benefits and services to trade-affected workers in coordination with the State agency that administers the UI law, if applicable, and such other agency or agencies of the State as the Governor of the State may designate to cooperate with such CSA for performance accountability reporting and other purposes.

Customized training means work-based training that is:

(1) Designed to meet the special requirements of a single employer or group of employers;

(2) Conducted with a commitment by the employer or group of employers to employ a trade-affected worker upon successful completion of the training; and

(3) For which the employer pays for a significant portion (but in no case less than 50 percent) of the cost of such training.

Denial or *negative determination* or *petition denial* means a determination issued under § 618.235(b) that a group of workers is not eligible for TAA Program benefits.

Department of Labor or *Department* means the U.S. Department of Labor.

Downstream producer means a firm that performs additional, value-added production processes or services, such as final assembly, finishing, testing, packaging, or maintenance or transportation services. The value-added production processes or services must be performed directly for another firm that has a worker group certified to apply for the TAA Program under § 618.225, and the production processes or services must be carried out with respect to the article or service on which the certification under § 618.225 was based.

Eligible RTAA recipient means, for HCTC purposes (see definition of *HCTC*), an AAW eligible for RTAA and who is participating in RTAA for a month and is receiving an RTAA benefit for that month.

Eligible TAA recipient means, for HCTC purposes (see definition of *HCTC*), an AAW who receives TRA for any day of the month or who would be eligible to receive TRA but for the fact that the worker has not exhausted his or her UI entitlement.

Employer means any individual or type of organization, including the Federal Government, a State

government, a political subdivision, or an instrumentality of one or more governmental entities, with one or more individuals performing service in employment for it within the United States.

Employment means any service performed for an employer by an officer of a corporation or by an individual for wages.

Enrolled in training means that a worker's application for training is approved by the State under subpart F of this part, and the training provider has furnished written notice to the State that the worker has been accepted in the approved training program, which is to begin within 30 calendar days of the date of such approval.

Exhaustion of UI means exhaustion of all rights to UI in a benefit period by reason of:

(1) Having received all UI to which a worker was entitled under the applicable State law or Federal unemployment compensation law with respect to such benefit period; or

(2) The expiration of such benefit period.

Family means the following members of an adversely affected worker's household whose principal place of abode is with the individual in a home the individual maintains or would maintain but for unemployment:

(1) Spouse;

(2) Domestic partner;

(3) Children of the adversely affected worker, of the worker's spouse, or of the worker's domestic partner, who are unmarried and under 21 years of age or who, regardless of age, are physically or mentally incapable of self-support. (The term ''children'' shall include natural offspring; stepchildren; adopted children; grandchildren, legal minor wards or other dependent children who are under legal guardianship of the worker, of the worker's spouse, or of the domestic partner; and an unborn child(ren) born and moved after the worker's effective date of transfer.);

(4) Dependent parents (including step and legally adoptive parents) of the worker, of the worker's spouse, or of the worker's domestic partner; and

(5) Dependent brothers and sisters (including step and legally adoptive brothers and sisters) of the worker, of the worker's spouse, or of the worker's domestic partner, who are unmarried and under 21 years of age or who, regardless of age, are physically or mentally incapable of self-support.

Filing date means the date on which the petition and attachments to the petition form are determined to be valid by the Department's Office of Trade Adjustment Assistance, in accordance with § 618.205.

Firm means an individual proprietorship, partnership, joint venture, association, corporation (including a development corporation), business trust, cooperative, trustee in bankruptcy, or receiver under decree of any court. A firm, together with any predecessor or successor-in-interest, or together with any affiliated firm controlled or substantially beneficially owned by substantially the same persons may be considered a single firm. Where the term ''firm'' appears in this part, it means ''firm or appropriate subdivision.'' Firm also means an agricultural firm or service sector firm or an appropriate subdivision thereof. For purposes of subpart B of this part only, firm does not include a public agency or any subdivision of a public agency, as defined in 29 U.S.C. 203(x).

First benefit period means the benefit period established after the AAW's first qualifying separation or in which such separation occurs.

Full-time training means:

(1) Attendance in training in accordance with the training provider's established full-time hours in a day (or credit hours) and days in a week; and

(2) In the last semester of training, if the remaining course(s) to complete the training approved under subpart F of this part do not meet the training provider's usual definition of full-time, States must consider the participation in training as full-time training, if no additional training or coursework will be required to complete the training program.

Group of workers means at least two workers employed or formerly employed by the same firm, or an appropriate subdivision thereof, including teleworkers and staffed workers, who file a petition for certification under subpart B of this part, or for whom a petition is filed.

Health Coverage Tax Credit or *HCTC* means the tax credit equal to a specific percentage of the costs of qualified health insurance premiums, which is administered by the Internal Revenue Service under section 35 of the Internal Revenue Code of 1986, as amended (26 U.S.C. 35). When the tax credit is available, eligible TAA and RTAA recipients (see definitions of *eligible TAA recipient* and *eligible RTAA recipient*) and qualifying family members may apply for advance payment of the credit or claim the credit on their income tax return.

Impact date means the date stated in a certification of eligibility to apply for the TAA Program, on which the total or partial separations of the workers covered by the certification began or threatened to begin, but in most cases, is not more than 1 year before the petition date.

Increased imports means that imports have increased either absolutely or relative to domestic production compared to a representative base period. The representative base period will be 1 year consisting of the 4 quarters immediately preceding the date that is 12 months prior to the date of the petition.

Individual employment plan or *IEP* means a revisable document containing an ongoing strategy, jointly developed by the trade-affected worker and the State, identifying the worker's employment goals, appropriate achievement objectives, and appropriate services for the worker to achieve his or her employment goals, objectives, and benchmarks while in training or receiving employment and case management services.

Job finding club means a job search workshop that includes a period of 1 to 2 weeks of structured, supervised activity in which trade-affected workers attempt to obtain jobs.

Job search program or *JSP* means a job search workshop or job finding club.

Job search workshop means a short (1 to 3 days) seminar designed to provide workers with knowledge that will enable the workers to find jobs. Subjects are not limited to, but should include, labor market information, resume writing, interviewing techniques, and techniques for finding job openings.

Lack of work means that the employer does not have work for the worker to perform or does not make that work available to the worker, and includes, but is not limited to, circumstances when:

(1) Work is unavailable because the employer suspends or ceases operations or institutes a lockout; or

(2) Work is unavailable because the employer downsizes the workforce by means of attrition or layoff.

Layoff means a suspension of or separation from employment by a firm for lack of work, initiated by the employer, and expected to be for a definite or indefinite period of time.

Liable State means, with respect to a trade-affected worker making claims for TAA Program benefits, the State whose State UI law is the applicable State law. A State can be both an agent State and a liable State.

Like or directly competitive means, for articles, that articles have characteristics that are substantially identical in inherent or intrinsic characteristics (*i.e.,* material from which the articles are made, appearance, quality) or are used

for substantially equivalent purposes and achieve comparable results and are, therefore, commercially interchangeable; and for services, services that have characteristics that are substantially identical in inherent or intrinsic characteristics (*i.e.,* processes and procedures that comprise the activity, sequence of steps or component elements required in the provision of the service or both) or are used for substantially equivalent purposes and achieve comparable results and are, therefore, commercially interchangeable.

Office of Trade Adjustment Assistance or *OTAA* means the organization within the U.S. Department of Labor, Employment and Training Administration that administers the TAA Program, or OTAA's successor organization.

One-stop delivery system means the nationwide system of one-stop career centers, known as American Job Centers, which administer and deliver workforce development, educational, and training activities, as well as supportive services to workers and job seekers, in accordance with title I of WIOA.

On-the-job training or *OJT* means work-based training, provided—under contract with an employer in the public, nonprofit, or private sector—to an AAW who is employed by the employer.

Partial separation or *partially separated* means, with respect to an AAW who has not been totally separated, that:

(1) For purposes of subpart B of this part:

(i) The worker's hours of work have been reduced to 80 percent or less of the worker's average weekly hours at the firm, or appropriate subdivision thereof during the period of investigation; and

(ii) The worker's wages have been reduced to 80 percent or less of the worker's average weekly wage at the firm, or appropriate subdivision thereof during the period of investigation.

(2) For this subpart and subparts C through I of this part:

(i) The worker's hours of work have been reduced to 80 percent or less of the worker's average weekly hours in adversely affected employment during the certification period; and

(ii) The worker's wages have been reduced to 80 percent or less of the worker's average weekly wage in adversely affected employment during the certification period.

Period of duty means active duty served by an AAW before completing training under subpart F of this part for a period of more than 30 days under a call or order to active duty of more than 30 days or, in the case of a member of the Army National Guard of the United States or Air National Guard of the United States, full-time National Guard duty under 32 U.S.C. 502(f), for 30 consecutive days or more when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

Petition date means the date a petition form is signed by the petitioner(s). When petitioners sign on different dates, the petition date is the latest of those dates.

Prerequisite education or *prerequisite coursework* or *prerequisite training* means any coursework or training required by a training provider before entering an occupational training program designed to impart the skills and information required to perform a specific job or group of jobs.

Program of remedial education or *remedial education* or *remedial training* means coursework or training that is designed to enhance the employability of a trade-affected worker by upgrading basic academic knowledge through such courses as adult basic education (ABE), basic math and literacy, English language acquisition (ELA) for nonnative speakers, and high school equivalency (HSE) courses, among others.

Qualifying separation means any total or partial separation of an AAW from adversely affected employment within the certification period for the purposes of determining the AAW's eligibility to receive Basic TRA; 26-week period for enrollment in approved training; and Basic TRA eligibility period. The first qualifying separation is used to determine the weekly and maximum amounts of Basic TRA payable to an AAW.

Reemployment Trade Adjustment Assistance or *RTAA* means the TAA Program benefit available to certain AAWs 50 years of age and older who obtain qualifying reemployment.

Regional Administrator means the appropriate Regional Administrator of the U.S. Department of Labor's Employment and Training Administration.

Secretary means the Secretary of Labor, U.S. Department of Labor, or his or her designee.

Separation date means:

(1) For a total separation:

(i) For a worker in employment status and not on employer-authorized leave, the last day worked; or

(ii) For a worker on employer-authorized leave, including leave for military service, the last day the worker would have worked had the worker not been on the employer-authorized leave.

(2) For a partial separation, the last day of the week in which the partial separation occurred.

Service means the work performed by a worker for a service firm or appropriate subdivision. The work of a service firm is measured in units of time, labor, and tasks completed. Services may include the incidental production of an article, such as a license, ticket, certificate, permit, model, drawing, or prototype. Services are intangible but may involve the use of tangible objects during the supply of the service (such as textbooks in the supply of educational services). Where the revenue of the firm, or appropriate subdivision, is generated from the sale of a service, the firm, or appropriate subdivision, is deemed to be engaged in activity related to the supply of a service.

Significant number or proportion of the workers means:

(1) The lesser of 50 workers or 5 percent of the workers within a firm, or appropriate subdivision, have been totally or partially separated, or both, or are threatened with total or partial separation; or

(2) 2 or more workers within a firm, or appropriate subdivision, with a workforce of fewer than 50 workers, have been totally or partially separated, or both, or are threatened with total or partial separation.

Staffed worker means a worker directly employed by one firm to perform work under the operational control of another firm that is the subject of a petition investigation. These workers were previously referred to as ''leased workers.'' The term excludes independent contractors.

State means the States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and the term ''United States,'' when used in the geographical sense, includes the Commonwealth of Puerto Rico.

State agency means the agency at the State level that administers the State law.

State law means the UI law of a State under section 3304 of the Internal Revenue Code of 1986, as amended (26 U.S.C. 3304).

Successor-in-interest means a firm, whether or not named on a certification issued under subpart B of this part, from which trade-affected workers are separated, or threatened with separation, and where most or all of the factors in paragraphs (1) through (7) of this definition are present, relative to a firm named on a determination issued under subpart B:

(1) There is continuity in business operations.

(2) There is continuity in location.

(3) There is continuity in the workforce.

(4) There is continuity in supervisory personnel.

(5) The same jobs exist under similar conditions.

(6) There is continuity in machinery, equipment, and process.

(7) There is continuity in product/service.

Suitable employment means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work that are not less than 80 percent of the worker's average weekly wage. Part-time, temporary, short-term, or threatened employment is not suitable employment.

Supplier means a firm that produces and supplies directly to another firm component parts for articles, or services, used in the production of articles or in the supply of services, as the case may be, that were the basis for a certification of eligibility under § 618.225 of a worker group employed by such other firm. There is no direct supply where an intervening customer, supplier, or another entity receives the component parts, aside from in a delivery or bailment capacity, or in the case of a service supplier, if an intervening entity performs the service.

Supportive services means services such as local transportation, childcare, dependent care, and housing, provided through WIOA or other programs, that are needed to enable an individual to participate in activities authorized under the Act.

Threatened to become totally or partially separated means that there is evidence of intent to separate workers or that imminent separations are reasonably anticipated.

Threatened to begin means, in the context of reasonably anticipated total or partial separations, the date(s) on which imminent separations will begin.

Total separation or *totally separated* means:

(1) For purposes of subpart B of this part, the layoff or severance of an AAW from a firm or appropriate subdivision thereof; or

(2) For all other purposes under this part, the layoff or severance of a worker from adversely affected employment with a firm, or appropriate subdivision thereof.

Trade Adjustment Assistance for Workers or *Trade Adjustment Assistance* or *TAA Program* means chapter 2 of title II of the Act, Public Law 93–618, 88 Stat. 1978 (19 U.S.C. 2271–2323 and 2395), as amended, which establishes the Trade Adjustment Assistance for Workers (TAA) Program. The benefits and services established under the Act, including RTAA, are collectively referred to as the Trade Adjustment Assistance Program (TAA Program) and provide assistance to workers adversely affected by foreign trade, as described in this part.

Trade-affected worker means both ''adversely affected workers'' and ''adversely affected incumbent workers.''

Trade Readjustment Allowances or *TRA* means a weekly allowance payable to an AAW who meets the requirements of subpart G of this part. There are three types of TRA: Basic, Additional, and Completion, as described in § 618.710.

Unemployment Insurance or *UI* means the unemployment compensation payable to a worker under any State law or Federal UI law, including chapter 85 of title 5 of the U.S. Code and the RRUI. UI includes:

(1) *Regular compensation* means compensation payable to a worker under any State unemployment compensation law (including compensation payable pursuant to 5 U.S.C. chapter 85), other than extended compensation and additional compensation.

(2) *Additional compensation* means compensation payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors.

(3) *Extended compensation* means compensation (including additional compensation and compensation payable pursuant to 5 U.S.C. chapter 85) payable for weeks of unemployment beginning in an extended benefit period to a worker under those provisions of the State law that satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA) (26 U.S.C. 3304 (note)) with respect to the payment of extended compensation, including one-hundred percent federally funded unemployment compensation extensions.

Value-added production processes or services means such processes or services similar to and including final assembly, finishing, testing, packaging, or maintenance or transportation services.

Wages means:

(1) Remuneration as defined by State law; or

(2) For purposes of calculating a reemployment wage when determining the availability of suitable employment, the stated salary and—to the extent known—the value of any compensation package that would be defined as remuneration under State law, as provided by an employer in a job posting or job offer.

Wagner-Peyser Act means the Wagner-Peyser Act, as amended (29 U.S.C. 49 *et seq.*).

Week means a week as defined in the applicable State law.

Week of unemployment means a week of total, part-total, or partial unemployment as determined under the applicable State law or Federal UI law.

Worker group means two or more workers of the same firm, or appropriate subdivision thereof, named in a certification rendered under subpart B of this part as eligible to apply for TAA Program benefits and services, inclusive of teleworkers and staffed workers.

Workforce Innovation and Opportunity Act or *WIOA* means the Workforce Innovation and Opportunity Act (Pub. L. 113–128, as amended).

§ 618.120 Severability.

Should a court of competent jurisdiction hold any provision(s) of this subpart to be invalid, such action will not affect any other provision of this subpart.

Subpart B—Petitions, Investigations, and Determinations

§ 618.200 Scope.

This subpart relates to petitions, investigations, and determinations of eligibility for a group of workers to apply for adjustment assistance under the Act. This subpart specifically applies to the initiation, conduct, and effective processing of petitions for certification of eligibility to apply for adjustment assistance. This subpart also contains general provisions with respect to filing of documents, public availability of documents, and the appeals process.

§ 618.205 Petitions.

(a) *Who may file a petition.* A petition for certification of eligibility to apply for adjustment assistance for a group of workers, or a request to amend an existing certification under § 618.250, must be filed simultaneously with the Department and with the State in which such workers' firm is located, by any of the following:

(1) A group of two or more workers from the same firm, on whose behalf the petition is filed;

(2) A certified or recognized union, or other duly authorized representative of the group of workers;

(3) The employer(s) of the group of workers; or

(4) One-stop center operators or one-stop partners, including State workforce officials, employment security agencies, or dislocated worker unit and rapid response team members.

(b) *Form and contents.* Petitioners may obtain a petition form and instructions online at: *https://www.dol.gov/agencies/eta/tradeact,* at a one-stop center (also known as an American Job Center), or by writing to: U.S. Department of Labor, Employment and Training Administration, Office of Trade Adjustment Assistance, 200 Constitution Avenue NW, Washington, DC 20210. A petition, which may include attachments, must provide the following information to be considered valid and for an investigation to commence:

(1) The name and contact information for each petitioner;

(2) The name of the firm;

(3) The address of the location(s) where the group of workers who have been totally or partially separated or threatened with separation report to work (for a teleworker, the address of the location to which they report);

(4) The name and contact information of an official within the firm or an individual authorized to provide information regarding the operation of the group of workers' firm;

(5) The article produced or service supplied by the firm;

(6) The actual or approximate date on which total or partial separations are threatened to occur or did occur;

(7) The actual or estimated total number of workers who have been or may be separated;

(8) A reason why the petitioner believes that worker separations have occurred or may occur at the firm due to foreign trade impacts, or a reason why a request to amend an existing and active certification should be granted; and

(9)(i) Every petition must be signed and dated by at least two members of the petitioning group of workers, or by an official of a certified or recognized union or other duly authorized representative of the group of workers, or by an official of the employer of the group of workers, or by a representative of one of the organizations listed in paragraph (a)(4) of this section.

(ii) Signing of a petition must constitute acknowledgement that the information provided on the petition form will be used for the purposes of determining worker group eligibility and providing notice to petitioners, workers, and the general public that the petition has been filed, and whether the worker group is eligible to apply for TAA Program benefits and services. Knowingly falsifying any information on the petition form is a Federal offense (18 U.S.C. 1001) and a violation of the Act (19 U.S.C. 2316). For the petition to be valid, the petitioner(s) listed on the form must sign and date the form, attesting to the fact that they are authorized to file a petition.

(c) *Supplemental information.* Providing supplemental information, while not required, may assist the investigation. Attachments to the petition form are part of the petition.

(d) *Filing.* (1) Petitions should be filed electronically with the Office of Trade Adjustment Assistance, via *https://www.dol.gov/agencies/eta/tradeact.* Individuals requiring assistance in filing online should contact their nearest one-stop center or the State's rapid response unit.

(2) Alternatively, petitions may be filed via email to *taa.petition@dol.gov,* via fax at (202) 693–3584 or (202) 693–3585, or by mail to: U.S. Department of Labor, Employment and Training Administration, Office of Trade Adjustment Assistance, 200 Constitution Avenue NW, Washington, DC 20210.

(e) *Industry notification of ITC determinations.* Upon receiving notification from the ITC that it has issued an affirmative determination of injury or threat of injury under section 202 or 421 of the Act, under an applicable safeguard provision enacted to implement a trade agreement to which the United States is a party, or an affirmative final determination of material injury of threat thereof in investigation under section 705 or 735 of the Tariff Act of 1930, the Department will notify the affected parties listed in paragraph (e)(1) of this section. To the extent practicable, the Department may also notify other duly authorized representatives of the industry to which the ITC determination applies.

(1) Parties the Department will notify under paragraph (e) of this section include:

(i) Representatives of the domestic industry affected by the determination;

(ii) Firms publicly identified by name during the proceeding related to the ITC determination; and

(iii) Unions representing workers in firms covered by the determination.

(2) The notice provided by the Department under paragraph (e) of this section will include:

(i) A summary of the ITC determination;

(ii) Information about the workers' potential eligibility for TAA Program benefits;

(iii) The benefits and services available under the TAA Program;

(iv) Information regarding the process for filing of petitions; and

(v) The availability of assistance from the State for filing petitions.

(3) The Department will also notify the Governor of each State in which one or more firms covered by an ITC determination are located and will identify those firms to the State.

(f) *Acceptance of petitions.* The Department will review a petition, including attachments, to determine if it is valid within 2 business days of receipt of the petition by the Department. The date on which the petition is determined to be valid under paragraph (b) of this section is the filing date. The Department will not initiate the investigation until it has determined that the petition is valid.

(g) *Multiple petitions for same group of workers.* If the Department receives multiple petitions regarding the same group of workers, it will base the filing date upon the first petition received.

(h) *Publication of notice in the* **Federal Register**. The Department will publish a notice in the **Federal Register** and on the Department's website announcing the initiation of an investigation into all valid petitions filed.

(i) *Public access to petitions.* A petition, including attachments, is a record that is available, in redacted form, in accordance with the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552), Executive Order 12600, and 29 CFR part 70. The Department will post all petitions, in redacted form, to the Department's website and make them available for review at the Office of Trade Adjustment Assistance, Washington, DC.

(j) *Receipt of petition by the State.* When the State receives a petition, the State must verify that the Department has also received the petition. If the petition has not been posted to the Department's website within 10 calendar days of receipt by the State, the State must forward the petition to the Department.

§ 618.210 Investigation.

(a) *Timing.* The Department will initiate an investigation once it has deemed the petition valid in accordance with § 618.205(f).

(b) *Period of investigation.* For purposes of this subpart, the period of investigation is the time period it takes to investigate each of the criteria that are part of the Department's determination. The period of investigation varies for some eligibility criteria; § 618.225 describes the period of investigation for each criterion.

(c) *Investigative process.* To determine whether the petitioning group of workers' eligibility criteria for certification have been met, the Department may take as many of the steps in paragraphs (c)(1) through (8) of this section during the investigation as it deems necessary to identify the group of workers and to reach a determination of eligibility to apply for TAA Program benefits for the identified worker group:

(1) Verify information on the petition form by contacting the petitioner(s);

(2) Provide the petitioner(s) the opportunity to submit additional evidence in support of the petition;

(3) Obtain publicly available information about the workers' firm and industry;

(4) Request information from the workers' firm;

(5) Request information from the customers of the workers' firm;

(6) Request information from the officials of certified or recognized unions or other duly authorized representatives of the group of workers;

(7) Request information from one-stop center operators or one-stop partners; or

(8) Use other available sources of information as necessary.

(d) *Protection of confidential business information.* (1) The Department will determine whether information submitted by a firm or customer is confidential business information in accordance with FOIA, as amended (5 U.S.C. 552), Executive Order 12600, the Trade Secrets Act (18 U.S.C. 1905), and 29 CFR part 70.

(2) The Department will not disclose confidential business information without the consent of the submitting firm or customer, unless under a court order to do so or as otherwise required by law.

(e) *Termination of investigation.* (1) The Department will notify the petitioner of the termination of an investigation, publish a Notice of Termination of Investigation in the **Federal Register**, and post on the Department's website. The Department may terminate an investigation if the investigation establishes one of the following:

(i) The petition is invalid, which includes petitions identifying a nonexistent group of workers, filed under false pretenses, or perpetuating fraud;

(ii) The petitioner has withdrawn the petition in writing;

(iii) The group of workers identified in the investigation is the same as a group of workers identified in another pending investigation;

(iv) The group of workers identified in the investigation already has been issued a denial, and the period of investigation applicable to the current investigation and the previous denial is the same; or

(v) The group of workers identified in the investigation is already covered by a certification that does not expire within 90 calendar days of the determination.

(2) If appropriate to protect the interests of the group of workers covered by a petition filed and terminated under paragraph (e)(1)(i) or (ii) of this section, the Department may use the original impact date of the terminated petition for the identical group of workers covered under a later, valid, petition covering the identical group of workers, provided that it is filed within 30 calendar days of the filing date of the first petition. Under no circumstances will the Department use the impact date of an earlier petition when that petition was terminated for being invalid under paragraph (e)(1)(i) of this section because it was filed under false pretenses or to perpetuate a fraud.

(3) Section 618.245 describes reconsideration of a termination of investigation.

(f) *Investigative record.* The investigative record of a determination will include the petition that initiated the investigation, the documents and other materials provided to the Department in connection with the determination on the petition, research conducted by the Department, and records of investigation activities (including but not limited to telephone logs and email correspondence, and any determination under § 618.225(a), (b), or (c)). The investigative record excludes information that is privileged or otherwise exempt from disclosure. Personally identifiable information and confidential business information will be protected consistent with all Federal authorities and Departmental administrative guidance.

(g) *Site visits.* The investigation may include one or more site visits to confirm information furnished by the petitioner(s) and to elicit other relevant information, where other methods to obtain or confirm information or both, are unsuccessful.

§ 618.215 Public hearings.

(a) *When held.* (1) A public hearing must be held in connection with an investigation initiated under § 618.210 whenever, but not later than 10 days after the date of publication in the **Federal Register** of the notice of receipt of the petition, such a hearing is requested in writing by:

(i) The petitioner; or

(ii) Any other person found by the Administrator to have a substantial interest in the proceedings.

(2) Such petitioner and other interested persons must be afforded an opportunity to be present, to produce evidence, and to be heard.

(3) An explanation of why the requestor is requesting the hearing must be provided to the Department.

(b) *Form of request.* A request for public hearing must be filed, in letter format, in the same manner as provided for other documents under § 618.205(d)(2). The request must contain:

(1) The name, address, and telephone number of the person, organization, or group requesting the hearing;

(2) A complete statement of the relationship of the person, organization, or group requesting the hearing to the petitioner or the petition's subject matter; and

(3) An explanation of why the person, organization, or requestor of the hearing is interested in the matter.

(c) *Time, place, and scope.* The time, place, and scope of a public hearing will be set by the presiding officers and published in the **Federal Register** a reasonable period of time before the scheduled hearing.

(d) *Presiding officer.* The Administrator, or his or her designee, must conduct and preside over public hearings.

(e) *Order of testimony.* Witnesses will testify in the order designated by the presiding officer. Each witness, after being duly sworn, will proceed with testimony. After testifying, the presiding officer or an agent designated by the presiding officer may question the witness. Any person who has entered an appearance in accordance with paragraph (k) of this section may direct questions to the witness, but only for the purpose of assisting the presiding officer in obtaining relevant and material facts with respect to the subject matter of the hearing.

(f) *Evidence.* Witnesses may produce evidence of a relevant and material nature to the subject matter of the hearing.

(g) *Briefs.* Parties who have entered an appearance may file briefs regarding the evidence produced at the hearing. The briefs must be filed with the presiding officer within 10 days of the completion of the hearing.

(h) *Oral argument.* The presiding officer must provide opportunity for oral argument by parties listed in paragraphs (a)(1)(i) and (ii) of this section after conclusion of the testimony in a hearing. The presiding officer will determine in each instance the time to

be allowed for argument and the allocation thereof.

(i) *Authentication of evidence.* Evidence, oral or written, submitted at hearings, will, upon order of the presiding officer, be subject to verification from books, papers, and records of the parties submitting such evidence and from any other available sources.

(j) *Transcripts.* All hearings will be transcribed or recorded in compliance with the standards of the Department. Persons interested in records of the hearings may inspect them at the U.S. Department of Labor in Washington, DC.

(k) *Appearances.* Any person showing a substantial interest in the proceedings may enter an appearance at a hearing, either in person or by a duly authorized representative.

§ 618.220 Use of subpoena.

(a) The Administrator may require, by subpoena, in connection with any investigation or hearing, the attendance and testimony of witnesses and the production of evidence the issuing official deems necessary to make a determination under this subpart.

(b) The Department will issue a subpoena to secure evidence from a firm, customer, petitioner, or other person who fails to provide requested information within 20 days of the request, unless the recipient of the subpoena demonstrates to the satisfaction of the Department that the information will be provided within a reasonable time. In making this determination, the Department will consider the following factors:

(1) Submission of a portion of the required information;

(2) Prompt cooperation with inquiries about the information;

(3) Cooperation in previous responses to information requests;

(4) Evidence of effort to obtain the required information; and

(5) Other information the Department determines to be relevant.

(c) Witnesses subpoenaed under this section to appear in person must be paid the same fees and mileage as are paid for like services in the District Court of the United States within the jurisdiction of which the proceeding is taking place. The Department must pay the witness fees and mileage.

(d) Subpoenas issued under paragraph (a) of this section must be signed by the Administrator, or his or her designee, and must be served consistent with Rule 5(b) of the Federal Rules of Civil Procedure. The date for compliance must be 7 calendar days following service of the subpoena, unless otherwise indicated.

(e) If the recipient of the subpoena refuses to provide the requested information, the Department may petition the appropriate District Court of the United States to seek enforcement of the subpoena.

§ 618.225 Criteria for certification of a group of workers.

(a) *Increased imports.* (1) This paragraph (a) includes criteria for certification of a group of workers based upon increased imports of:

(i) Articles like or directly competitive with the articles produced by the workers' firm;

(ii) Services like or directly competitive with the services supplied by the workers' firm;

(iii) Articles like or directly competitive with articles into which one or more component parts produced by the workers' firm are directly incorporated;

(iv) Articles like or directly competitive with articles that are produced directly using services supplied by the workers' firm; or

(v) Articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by the workers' firm.

(2) After review of the relevant information necessary to make a determination, the Certifying Officer must certify a worker group as eligible to apply for TAA Program benefits and services as impacted by increased imports if all four of the criteria in paragraphs (a)(2)(i) through (iv) of this section are met.

(i) *Criterion 1.* A significant number or proportion of the workers' firm, or appropriate subdivision thereof, have been totally or partially separated, or threatened with such separation, during the 1-year period prior to the petition date.

(A) Information regarding separations may be obtained from:

(*1*) A questionnaire;

(*2*) State workforce agencies;

(*3*) Unions;

(*4*) Workers in the group of workers;

(*5*) Public records; and

(*6*) Other reliable sources.

(B) Analysis of separation data must generally consist of a:

(*1*) Comparison of employment on the petition date to employment on the date that is 1 year prior to the petition date;

(*2*) Review of employment activity during the 1-year period prior to the petition date; and

(*3*) Review of evidence provided by the workers' firm regarding actual and threatened separations that occur, or are scheduled to occur, after the petition date.

(C) Evidence of threat of separation includes, but is not limited to:

(*1*) A Worker Adjustment and Retraining Notice (WARN) letter, or a notification issued under a similar State law;

(*2*) A separation schedule;

(*3*) Information provided to the public, such as a news release or notice on the workers' firm website;

(*4*) Information provided to the worker group; or

(*5*) Internal firm documents, including memoranda or a firm newsletter.

(ii) *Criterion 2.* Sales or production, or both, of the workers' firm has decreased during the 1-year period prior to the petition date.

(A) Information regarding sales or production may be collected from:

(*1*) Questionnaires;

(*2*) Public records; and

(*3*) Other reliable sources.

(B) Analysis of sales or production data must generally consist of a comparison of sales or production data on the petition date to sales or production data on the date that is 1 year prior to the petition date.

(iii) *Criterion 3.* Imports of the article or service have increased during the 1-year period prior to the petition date.

(A) Information regarding imports may be collected from:

(*1*) Questionnaires issued to the workers' firm or customer(s);

(*2*) Public records; and

(*3*) Other reliable sources.

(B) Analysis of the workers' firm import activity must generally consist of a comparison of the workers' firm import data on the petition date to the workers' firm import data on the date that is 1 year prior to the petition date.

(C) Analysis of customer import activity must generally consist of a comparison of the aggregate of customer import data on the petition date to the aggregate of customer import data on the date that is 1 year prior to the petition date.

(iv) *Criterion 4.* Increased imports have contributed importantly to worker separations, or threat of separation, and the decline in sales or production at the workers' firm.

(A) Analysis of the impact of increased imports on worker separations and declines in sales or production at the workers' firm must generally consist of determining:

(*1*) Whether there are one or more events, or factors, that lessen or sever the causal nexus between the increase in imports and worker separations or threat of separation, and the decline in

sales and production at the workers' firm;

(*2*) What percentage of the workers' firm sales or production declines was attributable to the firm's increased imports;

(*3*) What percentage of the workers' firm customer(s) sales or production declines was attributable to the firm's increased imports; and

(*4*) Whether there are other events or factors that mitigate or amplify the impact of increased imports on the workers' firm.

(B) The impact may be determined using a quantitative or qualitative analysis.

(b) *Shift.* (1) This paragraph (b) includes criteria for certification of a worker group based on a shift:

(i) In production of like or directly competitive articles by the workers' firm to another country; or

(ii) In the supply of like or directly competitive services by the workers' firm to another country.

(2) After a review of relevant information necessary to make a determination, the Certifying Officer must certify a group of workers as eligible to apply for TAA Program benefits and services as impacted by a shift in production or supply of service if all of the criteria in paragraphs (b)(2)(i) through (iii) of this section of are met.

(i) *Criterion 1.* A significant number or proportion of the workers' firm, or appropriate subdivision thereof, have been totally or partially separated, or threatened with separation, during the 1-year period prior to the petition date.

(A) Information regarding separations may be obtained from:

(*1*) A questionnaire;

(*2*) State workforce agencies;

(*3*) Unions;

(*4*) Workers in the group of workers;

(*5*) Public records; and

(*6*) Other reliable sources.

(B) Analysis of separation data must generally consist of a:

(*1*) Comparison of employment on the petition date to employment on the date that is 1 year prior to the petition date;

(*2*) Review of employment activity during the 1-year period prior to the petition date; and

(*3*) Review of evidence provided by the workers' firm regarding actual and threatened separations that occur, or are scheduled to occur, after the petition date.

(C) Evidence of threat of separation includes, but is not limited to:

(*1*) A WARN letter, or a notification issued under a similar State law;

(*2*) A separation schedule;

(*3*) Information provided to the public, such as a news release or notice on the workers' firm website;

(*4*) Information provided to the worker group; or

(*5*) Internal firm documents, including memoranda or a firm newsletter.

(ii) *Criterion 2.* There has been a shift in the production or supply of services by the workers' firm to a foreign country.

(A) Information regarding shift activity may be collected from:

(*1*) A questionnaire;

(*2*) Public records; and

(*3*) Other reliable sources.

(B) Analysis of shift activity must generally consist of a:

(*1*) Comparison of shift data on the petition date to shift data on the date that is 1 year prior to the petition date;

(*2*) Review of shift activity during the 1-year period prior to the petition date; and

(*3*) Review of evidence provided by the workers' firm regarding shift activity scheduled to occur after the petition date.

(C) Evidence of future planned shift activity must include more than a stated intent to shift activity to a foreign country and includes, but is not limited to, a reassignment of production or service supply; a reassignment of discrete aspects or stages of production or service supply; securing a facility in a foreign country; shipping resources to a foreign country; or acquiring personnel in a foreign country.

(iii) *Criterion 3.* The shift to a foreign country has contributed importantly to worker separations or threat of separation.

(A) Analysis of impact of shift activity on worker separations must generally consist of determining:

(*1*) Whether there are one or more events or factors that sever or lessen the causal nexus between the shift activity and worker separations or threat of separation;

(*2*) What percentage of the workers' firm sales or production declines was attributable to the firm's shift activity;

(*3*) Whether operations at the workers' firm domestic facility or facilities decreased at the same or at a greater rate than operations at the foreign facility or facilities; and

(*4*) Whether there are other events or factors that mitigate or amplify the impact of shift activity on the workers' firm.

(B) The impact may be determined using a quantitative or qualitative analysis.

(c) *Foreign acquisition.* This paragraph (c) includes criteria for certification of a worker group based on a foreign acquisition of like or directly competitive articles by the workers' firm from another country. After review of relevant information necessary to make a determination, the Certifying Officer must certify a group of workers as eligible to apply for TAA Program benefits and services as impacted by a foreign acquisition of articles or services if all of the criteria in paragraphs (c)(1) through (3) of this section are met.

(1) *Criterion 1.* A significant number or proportion of the workers' firm, or appropriate subdivision thereof, have been totally or partially separated, or threatened with separation, during the 1-year period prior to the petition date.

(i) Information regarding separations may be obtained from:

(A) A questionnaire;

(B) State workforce agencies;

(C) Unions;

(D) Workers in the group of workers;

(E) Public records; and

(F) Other reliable sources.

(ii) Analysis of separation data must generally consist of a:

(A) Comparison of employment on the petition date to employment on the date that is 1 year prior to the petition date;

(B) Review of employment activity during the 1-year period prior to the petition date; and

(C) Review of evidence provided by the workers' firm regarding actual and threatened separations that occur, or are scheduled to occur, after the petition date.

(iii) Evidence of threat of separation includes, but is not limited to:

(A) A WARN letter, or a notification issued under a similar State law;

(B) A separation schedule;

(C) Information provided to the public, such as a news release or notice on the workers' firm website;

(D) Information provided to the worker group; or

(E) Internal firm documents, including memoranda or a firm newsletter.

(2) *Criterion 2.* There has been an acquisition of articles or supply of services by the workers' firm from an entity in a foreign country.

(i) Information regarding separations may be obtained from:

(A) A questionnaire;

(B) State workforce agencies;

(C) Unions;

(D) Workers in the group of workers;

(E) Public records; and

(F) Other reliable sources.

(ii) Analysis of acquisition data must generally consist of a:

(A) Comparison of acquisition data on the petition date to acquisition data on the date that is 1 year prior to the petition date;

(B) Review of acquisition data during the 1-year period prior to the petition date; and

(C) Review of evidence provided by the workers' firm regarding acquisition activity scheduled to occur after the petition date.

(iii) Evidence of future planned acquisitions requires more than a stated intent to procure production of an article or supply of services from an entity in a foreign country and may include, but is not limited to, entering into a contract with a licensee; reassignment of production or service supply to a contractor or licensee; and a reassignment of discrete aspects or stages of production or service supply to a contractor or licensee.

(3) *Criterion 3.* The acquisition from a foreign country has contributed importantly to worker separations or threat of separation.

(i) Analysis of impact of acquisition data on worker separations must generally consist of determining:

(A) Whether there are one or more events or factors that lessen or sever the causal nexus between the acquisition activity and worker separations or threat of separation;

(B) What percentage of the workers' firm sales or production declines was attributable to the firm's acquisition activity;

(C) Whether operations at the workers' firm domestic facility or facilities decreased at the same or at a greater rate than contractor or licensee operations in the foreign country; and

(D) Whether there are other events or factors that mitigate or amplify the impact of acquisition activity on the workers' firm.

(ii) The impact may be determined using a quantitative or qualitative analysis.

(d) *Supplier of component parts or services.* This paragraph (d) contains criteria for certification of a worker group as a supplier to a worker group. After review of relevant information necessary to make a determination, the Certifying Officer must certify a worker group as eligible to apply for TAA Program benefits and services as a supplier to a worker group if all of the criteria in paragraphs (d)(1) through (5) of this section are met.

(1) *Criterion 1.* A significant number or proportion of the workers' firm, or appropriate subdivision thereof, have been totally or partially separated, or threatened with separation, during the 1-year period prior to the petition date.

(i) Information regarding separations may be obtained from:

(A) A questionnaire;

(B) State workforce agencies;

(C) Unions;

(D) Workers in the group of workers;

(E) Public records; and

(F) Other reliable sources.

(ii) Analysis of separation data must generally consist of a:

(A) Comparison of employment on the petition date to employment on the date that is 1 year prior to the petition date;

(B) Review of employment activity during the 1-year period prior to the petition date; and

(C) Review of evidence provided by the workers' firm regarding actual and threatened separations that occur, or are scheduled to occur, after the petition date.

(iii) Evidence of threat of separation includes, but is not limited to:

(A) A WARN letter, or a notification issued under a similar State law;

(B) A separation schedule;

(C) Information provided to the public, such as a news release or notice on the workers' firm website;

(D) Information provided to the worker group; or

(E) Internal firm documents, including memoranda or a firm newsletter.

(2) *Criterion 2.* The certification of the worker group employed by the firm to which the workers' firm supplied component parts or services has not expired by the petition date.

(3) *Criterion 3.* The workers' firm conducted business with the firm identified in paragraph (d)(2) of this section during the 1-year period prior to the petition date.

(4) *Criterion 4.* The certification identified in paragraph (d)(2) of this section was based on an article or service related to the component part produced or service supplied by the workers' firm.

(5) *Criterion 5.* The component parts supplied to the firm identified in paragraph (d)(2) of this section, represented at least 20 percent of the supplier's production or sales during the 1-year period prior to the petition date, or loss of business with the firm identified in paragraph (d)(2) of this section, during the 1-year period prior to the petition date, contributed importantly to separations or threat of separation at the workers' firm.

(e) *Downstream producer.* After review of relevant information necessary to make a determination, the Certifying Officer must certify a worker group as eligible to apply for TAA Program benefits and services as a downstream producer if all of the criteria in paragraphs (e)(1) through (5) of this section are met.

(1) *Criterion 1.* A significant number or proportion of the workers' firm, or appropriate subdivision thereof, have been totally or partially separated, or threatened with separation, during the 1-year period prior to the petition date.

(i) Information regarding separations may be obtained from a questionnaire, State workforce agencies, unions, workers in the group of workers, public records, and other reliable sources.

(ii) Analysis of separation data must generally consist of a:

(A) Comparison of employment on the petition date to employment on the date that is 1 year prior to the petition date;

(B) Review of employment activity during the 1-year period prior to the petition date; and

(C) Review of evidence provided by the workers' firm regarding actual and threatened separations that occur, or are scheduled to occur, after the petition date.

(iii) Evidence of threat of separation includes, but is not limited to:

(A) A WARN letter, or a notification issued under a similar State law;

(B) A separation schedule;

(C) Information provided to the public, such as a news release or notice on the workers' firm website;

(D) Information provided to the worker group; or

(E) Internal firm documents, including memoranda or a firm newsletter.

(2) *Criterion 2.* The certification of the worker group employed by the firm to which the workers' firm provided value-added production processes or services has not expired by the petition date.

(3) *Criterion 3.* The workers' firm conducted business with the firm identified in paragraph (e)(2) of this section during the 1-year period prior to the petition date.

(4) *Criterion 4.* The certification identified in paragraph (e)(2) of this section was based on an article or service related to the value-added production processes or services supplied by the workers' firm.

(5) *Criterion 5.* Loss of business with the firm identified in paragraph (e)(2) of this section during the 1-year period prior to the petition date contributed importantly to separations or threat of separation at the workers' firm.

(f) *ITC determinations.* After review of relevant information necessary to make a determination, the Certifying Officer must certify a worker group as eligible to apply for TAA based on a determination issued by the ITC if all of the criteria in paragraphs (f)(1) through (3) of this section are met.

(1) *Criterion 1.* The ITC has publicly identified the workers' firm, by name, as a member of a domestic industry in an investigation resulting in:

(i) An affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1));

(ii) An affirmative determination of market disruption or threat thereof under section 421(b)(1) of the Act (19 U.S.C. 2451(b)(1)); or

(iii) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A)).

(2) *Criterion 2.* The petition is filed during the 1-year period beginning on the date on which:

(i) A summary of the report submitted to the President by the ITC under section 202(f)(1) of the Act with respect to the affirmative determination described in paragraph (f)(1)(i) of this section is published in the **Federal Register** under section 202(f)(3) of the Act; or

(ii) Notice of an affirmative determination described in paragraph (f)(1)(ii) or (iii) of this section is published in the **Federal Register**.

(3) *Criterion 3.* The workers have become totally or partially separated from the workers' firm within:

(i) The 1-year period described in paragraph (f)(2) of this section; or

(ii) The 1-year period preceding the 1-year period described in paragraph (f)(2) of this section.

(g) *Sales or production decline criteria.* For paragraphs (a) through (c) of this section, in assessing sales or production decline for the period 1 year prior to the petition date, the Department will use a comparison of the latest 2 full calendar year periods and will use a comparison of the year to date period (from the year the petition was filed) to the same year to date period from the prior year. This paragraph (g) does not apply to determining whether a significant number of workers have been separated or threatened with separation.

(h) *Oil and gas.* For workers employed by firms engaged in exploration or drilling for crude oil and natural gas:

(1) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas must be considered to be a firm producing oil or natural gas;

(2) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, must be considered to be producing articles directly competitive with imports of oil and with imports of natural gas; and

(3) The Department may conduct a parallel investigation to determine whether the group of workers meets the criteria for certification of worker groups under this section for the services provided by the group of workers. The Department will render a determination after all appropriate avenues are considered.

(i) *Staffed workers.* The Department considers staffed workers to be members of a worker group even if they are not specifically mentioned within the determination document issued under § 618.235. The Department will collect information from the workers' firm during the investigation to establish which leasing or staffing entity or entities the firm used under a contract. Once identified, an evaluation of operational control will occur. If a certification is rendered, the Department will notify States regarding the appropriate contact information of the known leasing or staffing entity or entities in order to expedite worker notification of their eligibility to apply individually for TAA Program benefits and services. Factors to be considered in evaluating operational control include:

(1) Whether the contract workers perform only tasks that are independent, discrete projects for the workers' firm (as opposed to performing tasks that are part of the regular business operations of the firm);

(2) Whether the workers' firm has the discretion to hire, fire, and discipline the contract workers;

(3) Whether the workers' firm has the ability to terminate the contract workers' employment with such firm through the staffing or leasing contracted firm;

(4) Whether the workers' firm exercises the authority to supervise the contract workers' daily work activities, including assigning and managing work, and determining how, where, and when the work of contract worker takes place (*e.g.,* factors such as the hours of work, the selection of work, and the manner in which the work is to be performed by each contract worker are relevant);

(5) Whether the services of the contract workers are offered on the open market;

(6) Whether the contract workers work exclusively for the workers' firm;

(7) Whether the workers' firm is responsible for establishing wage rates and the payment of salaries of the contract workers;

(8) Whether the workers' firm provides skills training to the contract workers; and

(9) Whether there are other facts indicating that the workers' firm exercises control over the contract workers.

(j) *Teleworkers.* The Department considers teleworkers (also known as remote, or home-based workers) to be members of a worker group even if they are not specifically mentioned within the determination document issued under § 618.235 when they would be a part of the worker group if they worked on-site. Teleworkers do not have to be physically based at the location of the subject firm or in the same city or same State of the location that is identified on the determination document to be members of the certified worker group.

(k) *Successor-in-interest.* The Department considers workers employed by a firm that is a successor-in-interest to be members of a worker group even if they are not mentioned specifically within the determination document issued under § 618.235.

§ 618.230 Evidence.

(a) The Department will verify information obtained during an investigation before considering such information in support of a petition.

(b) Evidence may be accepted from such sources including, but not limited to, petitioners, company officials, current and former workers of the firm, customers of the firm, trade associations, union representatives, Federal agencies, and public sources such as State agencies and academic institutions.

(c) The Department may share affidavits, testimonials, news articles, and other types of information proffered in support of a petition with appropriate parties for verification.

§ 618.235 Determinations.

Based on the findings of the investigation as set forth in § 618.230, a Certifying Officer will make a determination on a petition as provided under paragraph (a) or (b) of this section.

(a) *Affirmative determination or certification.* When the investigation establishes that a group of workers meets the eligibility criteria of § 618.225, the Certifying Officer will issue a certification of worker group eligibility to apply for TAA Program benefits and services. The certification will include the name of the firm or appropriate subdivision thereof at which the trade-affected workers covered by the certification have been employed (which need not be limited to the unit specified in the petition), and may identify the worker group by name, as described in § 618.225(i) and (j), the certification period, and the certification date.

(1) A certification covers any worker in the worker group eligible to apply for assistance under sec. 222(a) and (b) of the Act, whose last total or partial separation, or threat of a separation, from a firm or appropriate subdivision took place within the certification period, which is the period:

(i) Following the impact date, which is the date 1 year before the petition date; and

(ii) On or before the day the certification expires, which is 2 years after the certification date, or an earlier date on which the Certifying Officer determines that separations from adversely affected employment may no longer be attributed to the conditions underlying the certification, as described in § 618.240, or the date identified in an amendment described in § 618.250.

(2) A certification covers any worker in the worker group eligible to apply for TAA Program benefits and services under section 222(e) whose last total or partial separation from a firm took place within the certification period, which is the period:

(i) Following the impact date, which is the date 1 year before the ITC publication in the **Federal Register***;* and

(ii) On or before the day the certification expires, which is the date 1 year from the ITC publication in the **Federal Register**.

(3) A trade-affected worker who is a member of the worker group covered by the certification may apply to the State for benefits and services under subparts C through G of this part.

(b) *Negative determination or denial.* When the investigation establishes that the group of workers does not meet the criteria for eligibility, as described in § 618.225, the Certifying Officer will issue a denial. The denial will include the name of the firm or appropriate subdivision thereof at which the workers covered by the denial have been employed (which need not be limited to the unit specified in the petition), and may identify the worker group by name, as described in § 618.225(i) and (j).

(c) *Determination.* The Certifying Officer issues a determination identifying the article(s) produced or service(s) provided and describing the worker group covered by the certification or denial and stating the reasons for the determination (excluding information designated as confidential business information). The Department will provide a copy of the determination to the petitioner(s) and to the State(s) covered by the determination. The Department will publish in the **Federal Register***,* and on the Department's website, a summary of the determination issued under paragraph (a) or (b) of this section, along with a general statement of the reasons for the determination (except for confidential business information).

(d) *Amended determination.* The Department may amend a certification for any of the purposes described in § 618.250(a), in response to a petition filed under § 618.205, or without an outside request for an amendment. An amended determination will not take effect until the previous determination becomes final, either after the period in which to request reconsideration has lapsed or after the Department makes a determination on reconsideration. Amended certifications are discussed in more detail in § 618.250.

(e) *Administrative action.* The Department may, with or without an outside request, reconsider actions taken under § 618.210(e), 618.235(b), 618.240, 618.245, or 618.250.

§ 618.240 Termination of certification.

(a) *Initiation.* Whenever the Administrator of the Office of Trade Adjustment Assistance has reason to believe, with respect to any nonexpired certification, that the total or partial separations or threat of separation from a firm, or appropriate subdivision thereof, are no longer attributable to the conditions specified in section 222 of the Act and § 618.225, the Administrator must promptly conduct an investigation.

(b) *Notice.* A notice of the initiation of an investigation to terminate a certification must be published in the **Federal Register***,* and on the Department's website, and provided to the petitioner(s) of the certification under investigation, the firm official(s), and State(s) that contain the location(s) of the workers comprising the worker group covered by the certification. The State(s) must also promptly notify the workers in the worker group.

(c) *Opportunity for comment.* Within 10 calendar days after publication of the notice under paragraph (b) of this section, members of the worker group or any other person who has a substantial interest in the matter may provide evidence in writing supporting the continuation of eligibility of certification to show why the certification should not be terminated. If a hearing is requested, it will be conducted in accordance with § 618.215. If no evidence is provided by any interested party within 10 days from the date of publication to the **Federal Register** or on the Department's website, whichever is later, a determination must be issued once the investigation is complete. Evidence (except at a timely requested hearing) and hearing requests submitted outside the 10-day period will not be accepted.

(d) *Investigation of termination of a certification.* The Department will conduct a review of the record on which the certification was based, any evidence timely filed under paragraph (c) of this section, and any data submitted with the petition or provided subsequent to the filing of the petition.

(e) *Determination to terminate or partially terminate a certification.* A determination to terminate a certification may cover the entire worker group specified in the certification or a portion of that group. Such termination or partial termination must apply only with respect to total or partial separations occurring after the termination date specified in the determination notice and must only take effect after the determination becomes final, either after the period in which to request reconsideration has lapsed or after a determination on reconsideration is made.

(1) Upon making a determination that the certification should be terminated for all or part of the worker group specified in the certification, the Department will issue a determination, which will contain the reasons for making such determination, and notify the petitioner(s) of the original certification, the firm official(s), and the State(s). The Department will also publish the notice in the **Federal Register***,* and on the Department's website. The State will notify the worker group of the termination or partial termination.

(2) The termination date specified in the determination notice must not be earlier than the date of publication in the **Federal Register**.

(f) *Determination of continuation of certification.* After an investigation resulting in a decision that the certification should not be terminated, the Department will notify the petitioner(s) of the original certification, firm official(s), and the State(s). The State(s) will notify the worker group of the determination of continuation of certification. The Department will publish the determination in the **Federal Register** and on the Department's website. After receiving notice by the Department, the State(s) must notify the worker group of the continuation of certification.

(g) *Reconsideration of termination or partial termination of a certification.* Any party that is eligible under § 618.205 to submit a petition may file an application for reconsideration with

the Department, following the procedures described in § 618.245.

§ 618.245 Reconsideration of termination of an investigation, denial, or termination or partial termination of certification.

(a) *Application for reconsideration; contents.* (1) Any party who is eligible to file a petition under § 618.205, and any worker in the group of workers, may file a written application seeking reconsideration of a termination of an investigation under § 618.210(e); a negative determination issued under § 618.235(b); or a termination or partial termination of certification issued under § 618.240, via email: *reconsiderations.taa@dol.gov;* fax: (202) 693–3584 or (202) 693–3585; or mail: U.S. Department of Labor, Employment and Training Administration, Office of Trade Adjustment Assistance, 200 Constitution Avenue NW, Washington, DC 20210.

(2) An application for reconsideration must contain the following information to be complete and valid:

(i) The name(s) and contact information of the applicant(s);

(ii) The name or a description of the group of workers on whose behalf the application for reconsideration is filed in the case of an application for reconsideration of a termination of an investigation or a negative determination, or the name or a description of the worker group on whose behalf the application for reconsideration of a termination or partial termination of a certification is filed;

(iii) The petition number identified on the petition or determination that is the subject of the application for reconsideration;

(iv) The reasons for believing that the termination of the investigation, negative determination, or termination or partial termination of a certification identified in paragraph (a)(1) of this section is erroneous, including any issues that the applicant asserts require further investigation;

(v) Any information that may support the application for reconsideration, including material not considered prior to the termination of the investigation, negative determination, or termination or partial termination of a certification; and

(viii) The signature(s) of the party, or representative thereof, requesting reconsideration.

(b) *Time for filing.* An application for reconsideration of the termination of the investigation, negative determination, or termination or partial termination of a certification must be filed no later than 30 calendar days after the notice of the termination of the investigation, negative determination, or termination or partial termination of a certification has been published in the **Federal Register**. If an application is filed after that time, it will be returned as untimely filed.

(c) *Return of incomplete applications for reconsideration.* The Department will review an application for reconsideration within 2 business days upon its receipt to determine if the application contains all of the necessary information required under paragraph (a)(2) of this section. The Department will not accept an incomplete application for filing, but will return it to the applicant with a brief statement explaining why it is incomplete. Should an applicant wish to refile an application for reconsideration, the refiling must occur no later than 30 calendar days after the notice of the determination has been published in the **Federal Register**, within the 30-day period identified in paragraph (b) of this section or, if the application is returned less than 5 days before the end of that period, within 5 days of receipt.

(d) *Notice of an application for reconsideration.* After receipt of a complete and timely application for reconsideration, the Department will notify the applicant and publish in the **Federal Register** and on the Department's website the notice of the application and the initiation of an investigation on reconsideration of the termination of the investigation, negative determination, or termination or partial termination of a certification.

(e) *Opportunity for comment and submission of data on reconsideration.* Within 10 calendar days after publication of a notice under paragraph (d) of this section, any party who is eligible to file a petition under § 618.205 may make written submissions to show why the determination under reconsideration should or should not be modified.

(f) *Investigation on reconsideration.* The Department will conduct a review of the record on which the termination of the investigation, negative determination, or termination or partial termination of a certification was based, any comments timely filed under paragraphs (a)(2)(iv), (a)(2)(v), or (e) of this section, and any data submitted with the original petition or provided subsequent to the filing of the petition. The period of investigation under reconsideration will remain the same as the period of investigation for the original petition.

(g) *Determinations on reconsideration.* The Department will issue a final determination affirming, reversing, or modifying the termination of the investigation, negative determination, or termination or partial termination of a certification within 60 days after the date of receiving a complete and valid application for reconsideration. The Department will notify the applicant(s), the petitioner(s) of the original petition, firm official(s), and the State(s); and publish notice in the **Federal Register** of the determination on reconsideration and the reasons for it (redacting confidential business information). The State continues to be responsible for notifying trade-affected workers in a certified worker group of their eligibility to apply for TAA, in accordance with § 618.820. If 60 days pass without a determination on reconsideration, the Department will contact the applicant to ascertain whether the applicant wishes the Department to continue the reconsideration investigation and issue a determination on reconsideration or wishes the Department to terminate the reconsideration investigation, which renders the initial determination as the Department's final determination.

§ 618.250 Amendments of certifications.

(a) *Reasons for amendments.* A Certifying Officer may amend a certification. The Department retains the authority to amend a certification without a petition, where it has determined that an amendment is appropriate. Amendments must not extend the impact date more than 1 year prior to the petition date unless there is a statutory exception, as described in § 618.235(a)(1)(ii). Reasons for amendments include, but are not limited to:

(1) Identifying an ownership change affecting the applicable firm;

(2) Correcting technical errors; or

(3) Clarifying the identification of the worker group.

(b) *Petition filing.* Amendments must be requested through the regular petition process described in § 618.205.

(c) *Notification of amendment.* The Department will publish the amended certification in the **Federal Register** and on the Department's website. The Department will also notify the affected States and the State must notify any additional certified trade-affected workers, as required by § 618.820.

§ 618.255 Judicial review of determinations.

(a) *General.* A worker, group of workers, certified or recognized union, or authorized representative of such worker or group may commence a civil action for review of the determination by filing a complaint with the United

States Court of International Trade (USCIT) within 60 days after the date of publication of the notice of a final determination in the **Federal Register**, as provided under section 284 of the Act (19 U.S.C. 2395).

(b) *Final determination.* Only determinations issued under § 618.245(g) are final determinations for purposes of judicial review.

(c) *Certified record of the Department.* Upon receiving a copy of the summons and complaint from the clerk of the USCIT, the Department will file with the court a certified record meeting the requirements of the rules of the USCIT. When the certified record contains confidential business information, the Department will file a public version of the record redacting the confidential business information, and a separate version that includes the confidential business information, in accordance with the rules of the USCIT.

(d) *Further proceedings.* Upon remand by the USCIT, the Department will conduct an additional investigation and the Certifying Officer will make new or modified findings of fact and will modify or affirm the previous determination. Upon making this subsequent determination, the Certifying Officer will publish a summary of the determination and the reasons for the determination in the **Federal Register**, redacting any confidential business information from the published summary. The Certifying Officer also will file the determination upon remand and the record on which the determination is based with the USCIT, in accordance with the rules of USCIT.

(e) *Standard of review.* The determination and findings of fact by the Certifying Officer are conclusive if the USCIT determines that they are supported by substantial evidence, as provided under section 284 of the Act (19 U.S.C. 2395).

(f) *Individual benefits denials.* Appeals of denials of individual benefits are not determinations under section 222 of the Act and are not subject to review by the USCIT under section 284 of the Act.

(g) *Manner of filing.* Requests for judicial review must be filed in accordance with the rules of the USCIT.

§ 618.260 Study regarding certain affirmative determinations by the Commission.

(a) Upon notification from the Commission that it has begun an investigation under section 202 of the Act with respect to an industry, the Department must immediately begin a study of:

(1) The number of workers in the domestic industry producing the like or directly competitive article who have been or are likely to be certified as eligible for adjustment assistance, which includes, but is not limited to, analysis of:

(i) The estimated number of certified workers within the domestic industry named in the ITC affirmative determination;

(ii) Information obtained during the investigation of TAA Program determinations;

(iii) Responses from Domestic Industry Study;

(iv) Information obtained by consultation with ITC Commission industry experts; and

(v) Other pertinent workforce and trade-impact data of companies who are currently participating in the industry.

(2) The extent to which the adjustment of such workers to the import competition may be facilitated through the use of the TAA Program, other Departmental programs and resources, and programs administered by other Federal agencies.

(b) The report of the Department's study under paragraph (a) of this section must be made to the President not later than 15 days after the day on which the Commission makes its report under section 202(f)(1) of the Act. The Department will also publish the report in the **Federal Register** and on the Department's website.

§ 618.265 Availability of information to the public.

(a) *Information available to the public.* The Department posts all determinations on the Department's website at *https://www.dol.gov/agencies/eta/tradeact*. The Department also posts redacted versions of all petitions on the same website. Upon request to the Administrator of the Office of Trade Adjustment Assistance, members of the public may inspect petitions and other documents filed with the Administrator, transcripts of testimony taken and exhibits submitted at public hearings held under the provisions of this subpart, public notices concerning trade-affected worker assistance under the Act, and other reports and documents issued for general distribution, in accordance with the Department's record retention schedule, FOIA, and the Privacy Act.

(b) *Information not available to the public.* Confidential business information must not be made available to the public.

Subpart C—Employment and Case Management Services

§ 618.300 Scope.

This subpart describes the employment and case management services that the State must make available to trade-affected workers, either directly through the TAA Program or through arrangements with partner programs. This subpart requires States, under the Governor-Secretary Agreement at § 618.804, to integrate the provision of benefits and services available to trade-affected workers under the TAA Program with the delivery of employment services and other assistance provided through the one-stop delivery system (established under title I of WIOA), as required by sections 235 and 239(a), (e), and (g) of the Act. It also implements the requirements of section 221(a)(2)(A) of the Act for the provision of rapid response assistance and appropriate career services described in §§ 682.300 through 682.370, and 680.150 of this chapter, respectively, for workers upon receipt of a petition filed covering a group of workers.

§ 618.305 The Trade Adjustment Assistance Program as a one-stop partner.

(a) As provided by WIOA section 121(b)(1)(B)(vii), the TAA Program is a required one-stop partner under WIOA.

(b) The State must ensure that the TAA Program complies with WIOA's one-stop partnership requirements at WIOA section 121(b)(1)(A)(i) through (v). This includes, among the other requirements, paying infrastructure costs where the TAA Program is being carried out.

(c) The TAA Program must also comply with, and be a party to, the memorandum of understanding required under the regulations implementing WIOA at § 678.500 of this chapter, where the TAA Program is being carried out.

§ 618.310 Responsibilities for the delivery of employment and case management services.

(a) The State is responsible for providing information to workers about the TAA Program, as required in § 618.816;

(b) As part of the delivery of services, the State must:

(1) Conduct intake, which includes interviewing each trade-affected worker and reviewing suitable training opportunities reasonably available to each worker under subpart F of this part;

(2) Inform trade-affected workers of the employment services and

allowances available under the Act and this part, including the application procedures, the filing requirements for such services, and enrollment deadlines for receiving TRA, as described in subpart G of this part;

(3) Determine whether suitable employment, as defined in § 618.110, is available, and assist in job search activities related to securing suitable employment;

(4) Accept applications for training;

(5) Provide information on which training providers offer training programs at a reasonable cost and with a reasonable expectation of employment following the completion of such training, and assist in acquiring such training;

(6) Monitor the progress and attendance of trade-affected workers in approved training programs;

(7) Develop and implement a procedure for determining whether to issue a training waiver and to review waivers to determine whether the conditions under which they were issued have changed, in compliance with subpart G of this part;

(8) Provide access to workshops and other resources related to job search strategies, resume building, interviewing, and other topics available through the TAA Program or through the one-stop delivery system; and

(9) Coordinate the administration and delivery of additional appropriate employment services, benefits, training, supportive services, and supplemental assistance for workers with partner programs for which the trade-affected worker may be eligible.

(c) The State must make available the employment and case management services in paragraphs (c)(1) through (7) of this section to trade-affected workers who apply for or are seeking receipt of TAA Program benefits and services, and ensure that those workers are informed of the availability of:

(1) Comprehensive and specialized assessment of skill levels and service needs, including through:

(i) Diagnostic testing and use of other assessment tools; and

(ii) In-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.

(2) Development of an individual employment plan (IEP) to identify employment goals and objectives, and appropriate training to achieve those goals and objectives.

(3) Information on how to apply for financial aid, including referring workers to educational opportunity centers described in section 402F of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1070a–16), where applicable, and notifying workers that they may request that financial aid administrators at institutions of higher education (as defined in section 102 of HEA (20 U.S.C. 1002)) use the administrators' discretion under section 479A of HEA (20 U.S.C. 1087tt) to use current-year income data, rather than preceding-year income data, for determining the amount of the workers' need for Federal financial assistance under title IV of HEA (20 U.S.C. 1070 *et seq.*).

(4) Short-term prevocational services, including development of learning skills, communications skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare trade-affected workers for employment or training.

(5) Individual and group career counseling, including job search and placement counseling, during the period in which the worker is receiving a trade adjustment allowance or training under this chapter, and after receiving such training for purposes of job placement and employment retention.

(6) Provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including:

(i) Job-vacancy listings in such labor market areas;

(ii) Information on the job skills necessary to obtain the jobs identified in the job-vacancy listings described in paragraph (c)(6)(i) of this section;

(iii) Information relating to local occupations that are in demand and the earning potential of those occupations; and

(iv) Skills requirements for local occupations described in paragraph (c)(6)(iii) of this section.

(7) Information relating to the availability of supportive services, available through partner programs, including services relating to childcare, transportation, dependent care, housing assistance, and needs related payments that are necessary to enable a trade-affected worker to participate in training.

(d) To make available, with respect to the employment and case management services described in paragraph (c) of this section, means:

(1) That the State must inform the trade-affected worker of the full suite of services available; and

(2) That the State must offer and provide appropriate services to the trade-affected worker, as requested by the worker or deemed appropriate for the worker; and

(3) That the State must document each service provided to the trade-affected worker and document the reason any service listed in paragraph (c) of this section was not provided. The documentation must be included in the worker's case file, either through case notes or as a stand-alone document.

§ 618.325 Integrated service strategies and Workforce Innovation and Opportunity Act co-enrollment.

(a)(1) A State must co-enroll trade-affected workers who are eligible for WIOA's dislocated worker program. Workers may choose to decline co-enrollment in WIOA. A State cannot deny such a worker benefits or services under the TAA Program solely for declining co-enrollment in WIOA.

(2) A State must also make co-enrollment available to trade-affected workers who are eligible for other one-stop partner programs to ensure that all necessary and appropriate services, including supportive services, are available to the worker.

(b)(1) *Trade-affected worker dislocated worker eligibility.* Most trade-affected workers meet the eligibility criteria of a dislocated worker defined at WIOA section 3(15).

(2) *Partially separated worker and AAIW dislocated worker eligibility.* In certain circumstances, such as a general announcement of a closure, partially separated workers and AAIWs may meet the eligibility criteria as a dislocated worker under WIOA and must also be co-enrolled.

(3) *Trade-affected worker dislocated worker ineligibility.* Some trade-affected workers are ineligible for the WIOA dislocated worker program, including those that do not meet the Selective Service registration requirement, and will be exempt from the co-enrollment requirement in this section.

§ 618.330 Assessment of trade-affected workers.

(a) The assessment process forms the basis for determining which TAA Program benefits and services, including training, are most appropriate to enable trade-affected workers to successfully become reemployed.

(b) The State must schedule an initial assessment that provides sufficient time and information for the trade-affected worker to consider, request, and enroll in training or obtain a waiver of the training requirement in § 618.720(g) to protect the worker's eligibility to receive TRA under subpart G of this part.

(c) Assessments are administered with the cooperation of the trade-affected worker and should include discussion of the worker's interests, skills, aptitudes, and abilities.

(d) The results of assessments must be documented in the case file, either through case notes or as a stand-alone document.

(e) If an assessment has already been administered by a partner program, it must be reviewed once a worker becomes a trade-affected worker to ensure it has the required components as listed in § 618.335 for an initial assessment and, if necessary, § 618.345 for a comprehensive and specialized assessment. If the assessment(s) does not contain the required components, the assessment(s) must be supplemented by the State, in conjunction with the trade-affected worker, to ensure it is fully compliant with TAA Program requirements in this part.

(f) The State must make the trade-affected worker aware of the advantages of receiving an assessment(s). However, a worker may refuse an assessment. Since portions of the assessment(s) are necessary to determine eligibility for certain TAA Program benefits, a worker's refusal to provide necessary information, either as part of the assessment or outside of the assessment process, may result in a denial of a those benefits. This is detailed further in the applicable benefit sections throughout this part.

§ 618.335 Initial assessment of trade-affected workers.

(a) A State must carry out an initial assessment for each trade-affected worker as part of the intake process described in section 239(g) of the Act. When applicable, a State must use the results of an assessment developed by a partner program, supplemented if necessary, as described in § 618.330(e).

(b) The results of the initial assessment will determine the best service strategy to assist the trade-affected worker in obtaining reemployment and provide insight into which benefits and services under the TAA Program and partner programs would be most beneficial to the worker. The initial assessment of the availability of suitable employment to the worker in the local labor market must take into consideration the following factors:

(1) Prevailing local labor market conditions, including the unemployment rate, local employer skill demands and hiring prerequisites;

(2) The worker's knowledge, skills, and abilities from his or her education and previous employment;

(3) Transferable skills that the worker may possess that would be of interest to other local employers;

(4) Evaluation of a worker's skill levels (including literacy, numeracy, and English language proficiency), aptitudes, abilities (including skills gaps), and supportive service needs; and

(5) Any barriers to the worker's reemployment, such as:

(i) Lack of applicability of skills from the worker's present occupation to other occupations;

(ii) Skills that are in excess supply in the labor market area; or

(iii) Other barriers as outlined in WIOA section 3(24).

(c) Based upon the information gathered in the initial assessment, described in paragraph (a) of this section, the State may:

(1) Determine that suitable employment is available to the trade-affected worker, and if so, the State must make available employment and case management services. If the worker disagrees with the determination, the State must make available to the worker a comprehensive and specialized assessment (under § 618.345) to obtain additional information to determine whether the initial assessment was correct.

(2) Determine that no suitable employment is available to the worker and, if so, the State must make available services as described in § 618.310 (responsibilities for the delivery of employment and case management services) and a comprehensive and specialized assessment (as described in § 618.345) to develop a comprehensive service strategy for the trade-affected worker.

(d) If the State determines under paragraph (c) of this section that suitable employment is not available to a trade-affected worker, even with additional employment and case management services, the State must advise the worker to apply for training under subpart F of this part.

§ 618.345 Comprehensive and specialized assessment of trade-affected workers.

(a) The State must make available a comprehensive and specialized assessment to all trade-affected workers.

(b) The comprehensive and specialized assessment must take into account the trade-affected worker's goals and interests as they relate to employment opportunities either in the worker's commuting area or, where there is no reasonable expectation of securing employment in the worker's commuting area and the worker is interested in relocation, the employment opportunities and demand in the area to which the worker proposes to relocate.

(c) The comprehensive and specialized assessment must expand upon the initial assessment regarding the trade-affected worker's interests, skills, aptitudes, and abilities. This may include use of diagnostic testing tools and instruments and in-depth interviewing and evaluation to identify barriers to employment and appropriate employment goals. The in-depth interviewing of trade-affected workers must include discussion of training opportunities reasonably available to each trade-affected worker, as described in subpart F of this part; reviewing the opportunities with each trade-affected worker; and informing each trade-affected worker of the requirements for participating in training, including the enrollment deadlines required for TRA eligibility.

(d) The State may use information from the comprehensive and specialized assessment to determine whether the trade-affected worker has met the six criteria for approval of training listed in subpart F of this part.

§ 618.350 Individual employment plans for trade-affected workers.

(a) A State must:

(1) Make available an IEP; and

(2) Document an IEP for any trade-affected worker seeking training under subpart F of this part or a job search allowance under subpart D of this part, before the worker receives those benefits and services.

(b) An IEP must use the results of the initial and, if available, comprehensive and specialized assessments to assist in documenting a strategy to provide the trade-affected worker with the services needed to obtain employment, including the items listed in paragraph (c) of this section.

(c) An IEP must document:

(1) The trade-affected worker's employment goal, including the targeted occupation and industry;

(2) The training program proposed, if any;

(3) Any services that will be needed by the worker to obtain suitable employment, including career services, supportive services provided through partner programs, and post-training case management services;

(4) If applicable, any supplemental assistance (subsistence or transportation payments) required for participation in training and the basis for their calculation; and

(5) The worker's responsibilities under the plan.

(d) If an IEP has been previously developed with a trade-affected worker by a partner program, it must be reviewed once the worker becomes TAA Program-eligible to ensure it has the components required by paragraph (c) of this section. If the IEP does not contain the components, the IEP must be

supplemented by the State in conjunction with the worker to ensure it is fully compliant with the TAA Program requirements in this part.

(e) The State must monitor the progress of the trade-affected worker in meeting the worker's responsibilities as listed in the IEP, including attendance and achievement in approved training programs.

(f)(1) The State must modify the IEP as necessary to facilitate a successful performance outcome for the trade-affected worker.

(2) The modification must be done with the worker's input.

(3) At a minimum, the IEP must be modified when there is a change in the training program, receipt of supplemental assistance, or both.

(g) The State must make the trade-affected worker aware of the advantages of receiving an IEP. However, a worker may refuse to complete an IEP. Since portions of the IEP are necessary to determine eligibility for job search allowances under subpart D of this part and training under subpart F of this part, a worker's refusal to provide necessary information, either as part of the IEP or outside of the IEP process, may result in a denial of a those benefits and services. This is detailed further in subparts D and F of this part.

§ 618.355 Knowledge, skills, and abilities of staff performing assessments.

(a) Staff performing either the initial or comprehensive and specialized assessment must possess the following knowledge and abilities:

(1) Knowledge of the local labor market;

(2) Knowledge of local employer and occupation skill demands and hiring prerequisites, such as educational requirements and professional certifications;

(3) The ability to identify transferable skills that a trade-affected worker may possess that would be of interest to other local employers outside of the worker's present occupational area;

(4) The ability to evaluate quickly a worker's ability to conduct a self-directed job search; and

(5) The ability to identify barriers to a worker's employment that could be overcome with training and case management services.

(b) The staff performing these initial and comprehensive and specialized assessments may be from any partner program.

(c) Funds under section 235A(1) of the Act may be used to improve and maintain the knowledge and abilities of staff conducting assessments for trade-affected workers.

§ 618.360 Employment and case management services for trade-affected workers in training.

The State must make employment and case management services available, including placement and referrals to supportive services and follow-up services available through partner programs, to trade-affected workers during training, and after completion of training, and for AAWs on a waiver from training.

Subpart D—Job Search and Relocation Allowances

§ 618.400 Scope.

This subpart sets forth the conditions under which an AAW may apply for and receive a job search allowance to help the worker secure suitable employment outside the commuting area but within the United States. This subpart also sets forth the conditions under which an AAW may apply for and receive a relocation allowance to help the worker relocate to suitable employment secured outside the commuting area but within the United States.

§ 618.405 General.

(a) A State must grant a job search allowance to an AAW to help the worker secure suitable employment within the United States if the AAW meets the requirements in this subpart. A job search allowance for activities outside of the worker's commuting area may be provided for costs including, but not limited to:

(1) Travel to and attendance at job fairs and interviews;

(2) Travel to and attendance at prevocational workshops;

(3) Making an in-person visit with a potential employer who may reasonably be expected to have openings for suitable employment;

(4) Completing a job application in person with a potential employer who may reasonably be expected to have openings for suitable employment;

(5) Going to a local one-stop, copy shop, Post Office, or similar entity to print, copy, mail, email, or fax a job application, cover letter, and/or a resume;

(6) Going to a local one-stop, public library, community center, or similar entity to use online job matching systems, to search for job matches, request referrals, submit applications/resumes, attend workshops, and/or apply for jobs; and,

(7) Attending a professional association meeting for networking purposes.

(b) A State must grant a relocation allowance to an AAW to help the worker and the worker's family relocate within the United States if the AAW meets the requirements in this subpart. A State may grant a relocation allowance to a worker only once under a certification. A State may grant a relocation allowance to only one member of a family for the same relocation, even if there are multiple AAWs in the same family. If more than one member of a family applies for a relocation allowance for the same relocation, then the State must pay the allowance to the AAW who files first, if that AAW is otherwise eligible.

§ 618.410 Applying for a job search allowance.

(a) *Forms.* To receive a job search allowance, an AAW must apply to the State, using the State's process.

(b) *Submittal.* An AAW must apply for a job search allowance before beginning a job search to be funded by such an allowance.

§ 618.415 Eligibility for a job search allowance.

(a) *Conditions.* To be eligible for a job search allowance an AAW must:

(1) File an application before either:

(i) The later of the 365th day after either the date of the certification under which the AAW is covered, or the 365th day after the AAW's last total separation; or

(ii) The 182nd day after the date of concluding approved training;

(2) Be an AAW totally separated from the job covered under the certification when beginning the job search;

(3) Receive a determination by the State that the AAW:

(i) Cannot reasonably expect to secure suitable employment in the commuting area; and

(ii) Can reasonably expect to obtain, in the area of the job search, either:

(A) Suitable employment; or

(B) Employment that pays a wage of at least the 75th percentile of national wages, as determined by the National Occupational Employment Wage Estimates, and otherwise meets the definition of suitable employment;

(4) Receive a determination by the State that the worker cannot reasonably expect to secure suitable employment by alternatives to being physically present in the area of the job search, such as by searching and interviewing for employment by means of the internet and other technology;

(5) Not previously have received a relocation allowance under the same certification; and

(6) Complete a State-approved job search within 30 calendar days after the worker leaves the commuting area to begin the job search.

(b) *Completion of job search.* (1) An AAW has completed a job search when the worker either:

(i) Obtains a bona fide offer of employment; or

(ii) Has, with State verification, as provided in § 618.420(a)(2), contacted each employer the worker planned to contact, or to whom the State or other one-stop partner referred the worker as part of the job search.

(2) The job search is complete when one of the actions in paragraph (b)(1) of this section occurs, whichever comes first. For purposes of paragraph (b)(1)(i) of this section, ''bona fide'' means the offer of suitable employment is made in good faith by a prospective employer.

§ 618.420 Findings required for a job search allowance.

(a) *Findings by liable State.* Before a liable State may approve final payment of a job search allowance, the liable State must:

(1) Find that the AAW meets the eligibility requirements for a job search allowance specified in § 618.415(a)(1) through (6); and

(2) Verify that the worker contacted each employer the State certified or to whom the State or one-stop center referred the worker as part of the job search and must find that the worker completed the job search, as described in § 618.415(b) within the time limits stated in § 618.415(a)(6).

(b) *Assistance by agent State.* (1) When an AAW files an application for a job search allowance to conduct a job search in an agent State, the agent State in which the worker conducts the job search is responsible for assisting the worker in conducting the job search, for assisting the liable State by furnishing any information required for the liable State's determination of the claim, and for paying the job search allowance.

(2) The agent State must cooperate fully with the liable State in carrying out its activities and functions with regard to such applications. When requested by the liable State, the agent State must verify with the employer and report to the liable State whether the worker has obtained suitable employment, or a bona fide offer of suitable employment.

§ 618.425 Amount of a job search allowance.

(a) *Computation.* The job search allowance is 90 percent of the total costs of an AAW's travel (as defined in paragraph (a)(1) of this section) and lodging and meals (as defined in paragraph (a)(2) of this section), up to the limit in paragraph (b) of this section:

(1) *Travel.* The worker's allowable travel expenses may not exceed 90 percent of the prevailing cost per mile by privately owned vehicle under 41 CFR chapters 300 through 304, the Federal Travel Regulation (FTR), found at *https://www.gsa.gov/,* for round trip travel by the usual route from the worker's home to the job search area, though other forms of transportation may be utilized.

(2) *Lodging and meals.* The worker's allowable lodging and meals costs cannot exceed the lesser of:

(i) The actual cost for lodging and meals while engaged in the job search; or

(ii) 50 percent of the prevailing per diem allowance under the FTR, found at *https://www.gsa.gov/,* for the worker's job search area.

(b) *Limit.* The AAW's total job search allowance under a certification may not exceed $1,250, no matter how many job searches the worker undertakes. If the worker is entitled to be paid or reimbursed by another source for any of these travel, lodging, and meals expenses, the State must reduce the job search allowance by the amount of the payment or reimbursement.

(c) *Choice of mode of transportation.* With respect to the limits established in paragraph (a)(1) of this section, an AAW may elect to use a different mode of transportation than the one for which the State calculated the applicable reimbursement amount. However, the State must limit the reimbursement to the worker to the amount calculated under paragraph (a)(1) of this section.

§ 618.430 Determination and payment of a job search allowance.

(a) *Determinations.* The State must promptly make and record determinations necessary to assure an AAW's eligibility for a job search allowance. Sections 618.820 (determinations of eligibility; notices to individuals) and 618.828 (appeals and hearings) apply to these determinations. States must include copies of such applications and all determinations by the State in the AAW's case file.

(b) *Payment.* If the AAW makes a timely application, is covered under a certification, and is otherwise eligible, the State must make payment promptly after the worker has completed a job search and complied with paragraph (d) of this section, provided that funds are available for job search allowances.

(c) *Advances.* Once the State determines that the AAW is eligible for a job search allowance, it may advance the worker up to 60 percent of the estimated amount of the job search allowance subject to the limit in § 618.425(b), but not exceeding $750, within 5 days before the commencement of a job search. The State must deduct the advance from any payment under paragraph (b) of this section.

(d) *Worker evidence.* After the AAW completes a job search, the AAW must certify to the State as to the employer contacts made and must provide documentation of expenses in accordance with FTR and Uniform Guidance at 2 CFR part 200. This may include receipts for all lodging, purchased transportation, or other expenses. If an advance the worker received was more or less than the actual allowance, the State must make an appropriate adjustment and pay the balance entitled, or the worker must repay the excess received.

§ 618.435 Job search program participation.

(a) *Requirements.* An AAW who participates in an approved job search program (JSP), may receive reimbursement for necessary expenses of subsistence and transportation incurred for the worker's participation in the approved JSP, regardless of the worker's approval for, or receipt of, a job search allowance under §§ 618.420 and 618.430.

(b) *Approved JSP.* A State may approve a JSP if:

(1) The JSP is provided through WIOA, the public employment service, or any other Federal- or State-funded program, and meets the definition provided in § 618.110; or

(2) The JSP is sponsored by the firm from which the AAW has been separated.

(c) *JSP allowances.* Subsistence and transportation costs, whether inside or outside the AAW's commuting area, must be approved for workers participating in JSPs in accordance with § 618.640(a) and within available State funding levels.

§ 618.440 Applying for a relocation allowance.

(a) *Forms.* To receive a relocation allowance, an AAW must apply to the State using the State's process.

(b) *Submittal.* An AAW must apply for a relocation allowance and the State must approve the worker for a relocation allowance before the relocation begins. The State must make a timely determination on a relocation application submitted to allow the worker to promptly begin the relocation.

§ 618.445 Eligibility for a relocation allowance.

(a) *Conditions.* To be eligible for a relocation allowance, the AAW must:

(1) File an application before either:

(i) The later of the 425th day after the date of the certification under which the

worker is covered, or the 425th day after the date of the worker's last total separation; or

(ii) The 182nd day after the date the worker concluded training;

(2) Be an AAW totally separated from adversely affected employment when the relocation begins;

(3) Not have already received a relocation allowance under the same certification;

(4) Relocate within the United States but outside the worker's commuting area;

(5) Receive a determination by the State that the worker has no reasonable expectation of securing suitable employment in the commuting area, and has obtained either suitable employment or employment that pays a wage of at least the 75th percentile of national wages, as determined by the National Occupational Employment Wage Estimates, and otherwise meets the suitable employment requirements, or a bona fide offer of such employment, in the area of intended relocation;

(6) Begin the relocation as promptly as possible after the date of certification but no later than:

(i) 182 days after the worker filed the application for a relocation allowance; or

(ii) 182 days after the conclusion of an approved training program, if the worker entered a training program that received supplemental assistance approved under § 618.640(c) (subsistence payments) and (d) (transportation payments), for training outside the worker's commuting area; and

(7) Complete the relocation, as described in § 618.460(f), within a reasonable time as determined in accordance with FTR with the State giving consideration to, among other factors, whether:

(i) Suitable housing is available in the area of relocation;

(ii) The worker can dispose of the worker's residence;

(iii) The worker or a family member is ill; and

(iv) A member of the family is attending school, and when the family can best transfer the member to a school in the area of relocation.

(b) *Job search allowances.* The State may not approve a relocation allowance and a job search allowance for an AAW at the same time. However, if the worker has received a job search allowance, the worker may receive a relocation allowance at a later time or receive a relocation allowance as a result of a successful job search for which the worker received a job search allowance.

§ 618.450 Findings required for a relocation allowance.

(a) *Findings by liable State.* Before the liable State may approve final payment of a relocation allowance, the liable State must make the following findings:

(1) That the AAW meets the eligibility requirements for a relocation allowance specified in § 618.445(a)(1) through (7) and is not also simultaneously receiving a job search allowance as specified in § 618.445(b);

(2) That the worker submitted the application for a relocation allowance within the time limits specified in § 618.445(a)(1);

(3) That the worker began and completed the relocation within the time limitations specified in § 618.445(a)(6) and (7); and

(4) That the worker obtained suitable employment, or a bona fide offer of such suitable employment, in the area of intended relocation, in accordance with § 618.445(a)(5). The liable State must verify (directly or through the agent State) the suitable employment, or the bona fide offer, with the employer.

(b) *Assistance by agent State.* (1) When an AAW relocates to an agent State, the agent State is responsible for:

(i) Assisting the worker in relocating to the State, completing an application for a relocation allowance with the liable State, and paying the relocation allowance; and

(ii) Assisting the liable State by furnishing any information required for the liable State's determination on the claim.

(2) The agent State must cooperate with the liable State in carrying out its activities and functions with regard to relocation applications. When requested by the liable State, the agent State must verify with the employer and report to the liable State whether the worker has obtained suitable employment, or a bona fide offer of suitable employment.

§ 618.455 Determining the amount of a relocation allowance.

The AAW's relocation allowance includes the information in paragraphs (a) through (c) of this section, as applicable:

(a) *Reimbursement*—(1) *Travel.* (i) The State may reimburse the AAW for up to 90 percent of the prevailing cost per mile by privately owned vehicle under the FTR, found at *https://www.gsa.gov/,* for travel from the AAW's old home to the AAW's new home.

(ii) Separate travel of a family member or members who, for good cause and with the approval of the State, must travel separately to their new home, may also be reimbursed. For purposes of this paragraph (a)(1)(ii), good cause includes, but is not limited to, reasons such as a family member's health, schooling, job, or economic circumstances.

(2) *Lodging and meals.* The State may reimburse the worker for 90 percent of lodging and meal expenses for the worker and his or her family while they are in transit, but such costs may not exceed the lesser of:

(i) The actual lodging and meals cost to the worker and his or her family while they are traveling; or

(ii) 50 percent of the prevailing per diem allowance under the FTR, found at *https://www.gsa.gov/,* for the relocation area for those days while the worker and his or her family are traveling.

(3) *Movement of household goods.* (i) The State may reimburse the worker for 90 percent of the allowable costs of moving the workers and family's household goods and personal effects in accordance with the FTR (41 CFR chapter 302). This includes 90 percent of the costs of moving by the most economical commercial carrier the State can reasonably expect the worker to use, moving by rental truck or trailer (for rental, mileage, and fuel), or moving a house trailer or mobile home. It also includes 90 percent of the costs of temporary storage of household goods for up to 60 days. In approving the move of a house trailer or mobile home, the State must follow the specific requirements of the FTR, found at *https://www.gsa.gov.*

(ii) For a commercial carrier move of household goods or house trailer or mobile home, the worker must obtain an estimate of the moving cost and provide this to the liable State. The estimate may include the cost of insuring such goods and effects for their actual value or $40,000 as delineated in the FTR, whichever is less, against loss or damage in transit.

(iii) If more economical, the State may make direct arrangements for moving and insuring a worker's household goods and personal effects with a carrier and insurer selected by the worker and may make payment of 90 percent of moving and insurance costs directly to the carrier and insurer. No such arrangement releases a carrier from liability otherwise provided by law or contract for loss or damage to the worker's goods and effects. Any contract for moving and insuring an AAW's household goods must provide that the United States must not be or become liable to either party for personal injury or property loss damage under any circumstances.

(iv) The maximum net weight of the household goods relocated from the

worker's old home to the relocation area may not exceed that set by the FTR.

(4) *Lump sum.* As part of the relocation allowance, the worker will receive a lump sum equivalent to three times the worker's average weekly wage, not to exceed $1,250.

(b) *Reduction.* If the AAW is eligible to receive or has received moving expenses from any other source for the same relocation, the State must deduct the amount received from the amount of the relocation allowance as determined in paragraphs (a)(1) through (3) of this section.

(c) *Limitation.* In no case may the State pay a travel allowance for the AAW or a family member more than once for a single relocation.

§ 618.460 Determinations and payment of a relocation allowance.

(a) *Determinations.* The State must promptly make and record determinations necessary to assure an AAW's eligibility for a relocation allowance. Sections 618.820 (determinations of eligibility; notices to individuals) and 618.828 (appeals and hearings) apply to these determinations. The State must include copies of such applications and all determinations by the State in the AAW's case file.

(b) *Payment.* If the AAW makes a timely application, is covered under a certification, and is otherwise eligible, the State must make payment as promptly as possible.

(c) *Travel allowances*—(1) *Payment.* The State must pay the allowances computed under § 618.455 no earlier than 10 days in advance of, and no later than at the time of, the AAW's scheduled departure to begin relocation. The State must make the payment for a family member approved for separate travel 10 days in advance of, or at the time of that family member's scheduled departure.

(2) *Worker evidence.* After an AAW completes the relocation, the AAW must certify to the State the expenses associated with the relocation, in accordance with the FTR and Uniform Guidance in 2 CFR part 200. This may include receipts for all lodging, purchased transportation, or other expenses. If an advance the worker received was more or less than the actual allowance, the State must make an appropriate adjustment and pay the balance entitled, if any, or the worker must repay any excess received, if any.

(d) *Movement of household goods.* The State must pay the amount equal to 90 percent of the estimate of the costs of moving the AAW's household goods by the most economical commercial carrier the State can reasonably expect the worker to use (as described in § 618.455(a)(3) (determining the amount of a relocation allowance) as follows:

(1) *Commercial carrier.* If a commercial carrier moves the worker's household goods and personal effects, the State must provide the worker with an advance equal to 90 percent of the estimated cost of the move, including any other charges that the State has approved, such as insurance. The State must advance the funds to the worker no earlier than 10 days in advance of, and no later than at the time of, the scheduled shipment. If more economical, the State may make direct arrangements for moving and insuring a worker's household goods and personal effects with a carrier and insurer selected by the worker and may make payment of 90 percent of moving and insurance costs directly to the carrier and insurer subject to the conditions of § 618.455(a)(3)(iii). The State must deliver payment to the carrier and insurer no earlier than 10 days in advance of, and no later than at the time of, the scheduled shipment.

(i) On completion of the move, as determined under paragraph (f) of this section, the worker must promptly submit to the State a copy of the carrier's bill of lading, including a receipt showing payment of moving costs.

(ii) If the amount the worker received as an advance is greater than 90 percent of the actual approved moving costs, the worker must reimburse the State for the difference. If the advance the worker received is less than 90 percent of the actual moving costs approved by the State, the State must reimburse the worker for the difference.

(2) *Private truck and trailer, rental truck or trailer, or house trailer move*—(i) *Private vehicle with trailer.* If the move is by private vehicle and trailer, the State must advance 90 percent of the estimated cost for the use of the private vehicle within 10 days in advance of the scheduled move.

(ii) *Truck and trailer rental.* If the move is by rental truck or rental trailer, the State must advance 90 percent of the estimated rental cost within 10 days in advance of the scheduled move. The State may make payment to either the worker or the rental company.

(iii) *House trailer.* If a house trailer or mobile home is moved by commercial carrier, the State must advance 90 percent of the approved estimated cost to the worker within 10 days in advance of the scheduled move. The State may make payment to either the worker or the carrier.

(iv) *Itemized receipt.* Upon completion of the move, the worker must promptly submit an itemized receipt to the State for payment of the rental charges and fuel costs. If the amount the worker received as an advance is greater than 90 percent of the actual moving costs, the worker must reimburse the State for the difference. If the advance the worker received is less than 90 percent of the actual moving costs approved by the State, the State must pay the worker for the difference.

(3) *Temporary storage.* If temporary storage, not to exceed 60 days, of household goods and personal effects is necessary for the relocation, then the State must advance 90 percent of the approved estimated cost within 10 days in advance of the scheduled move. The State may make payment to either the worker or the rental agency.

(e) *Lump sum allowance.* The State must pay the lump sum allowance provided in § 618.455(a)(4) when arrangements for the relocation are finalized, but not more than 10 days before the earlier of the AAW's anticipated departure from his or her old home, or the anticipated date of shipment of the worker's household goods and personal effects.

(f) *Relocation completed.* An AAW completes a relocation when the worker and family, if any, along with household goods and personal effects are delivered to the new residence in the area of relocation or to temporary storage. If the worker moves no household goods and personal effects, then a worker completes relocation when the worker and family, if any, arrive in the area of relocation and establish a residence in the new area. When a family member is approved for separate travel, the later arrival of such family member does not alter the date on which the State must consider the relocation completed.

Subpart E—Reemployment Trade Adjustment Assistance

§ 618.500 Scope.

This subpart provides the rules for RTAA. RTAA, authorized under section 246 of the Act, provides 50 percent of the difference between the wages received by the AAW at the time of separation from adversely affected employment and the wages received by the worker from reemployment for workers aged 50 and older who meet the eligibility criteria described in this subpart. This subpart identifies the eligibility criteria and the benefits available to AAWs who are eligible for RTAA.

§ 618.505 Individual eligibility.

(a) *Eligibility criteria.* An AAW from a worker group certified under § 618.225

may elect to receive RTAA benefits if the AAW:

(1) Is at least 50 years of age;

(2) Earns not more than, or is projected to earn not more than, $50,000 in reemployment wages each year during the eligibility period, as further defined in § 618.520(a);

(3) Earns less than, or is projected to earn less than, the AAW's annualized wages at separation, as further defined in § 618.520(a);

(4)(i) Is employed on a full-time basis as defined by the law of the State in which the worker is employed and is not enrolled in any training program approved under subpart F of this part; or

(ii) Is employed at least 20 hours per week and is enrolled in a TAA approved training program; and

(5) Is not employed at the firm, as further defined in paragraph (b) of this section, from which the worker was separated.

(b) *Eligibility-relevant definitions.* For purposes of RTAA, the following definitions apply:

(1) *Firm.* The State must determine on a case-by-case basis what constitutes the ''firm'' for purposes of determining RTAA eligibility based on the certification. If the Department issues the certification under subpart B of this part for a worker group in an appropriate subdivision of a firm, an AAW in that group is not eligible for RTAA upon a return to employment within that subdivision, but may be eligible for RTAA upon a return to employment at another subdivision of the firm. If, however, the Department issues the certification for a worker group composed of all workers from the firm rather than from a subdivision, then the worker is not eligible for RTAA based on a return to employment in any subdivision of that firm.

(2) *Successor-in-interest.* The State must determine if the firm now employing the AAW is the same firm as the one from which the AAW was separated.

(i) In making its determination, the State should first review the certification under which the worker was covered, look for any amendments to the certification, and compare the name and address of the firm in the certification to the name and address of the firm in which the worker has found reemployment. If they are the same, this is, in most cases, dispositive: The firms are the same and the worker is not eligible for RTAA.

(ii) If, despite the information gathered under paragraph (b)(2)(i) of this section, it nonetheless remains unclear whether the firms are the same, the State may need to obtain further information about the firm reemploying the worker, from the employer and otherwise, to make that determination. To do so, the State should determine whether the firm at which the worker found reemployment is a ''successor-in-interest'' to the firm from which the worker was separated. If the reemploying firm merged with, acquired, or purchased the assets of the firm from which the worker was separated, then the reemploying firm is a successor-in-interest.

(iii) If the reemploying firm does not meet the criteria in paragraph (b)(2)(ii) of this section, or if that information is unavailable, then the State should consider the factors identified in paragraphs (b)(3)(i) through (vii) of this section to determine whether the reemploying firm is a successor-in-interest. If the State determines that the worker returned to employment with a successor-in-interest to the firm from which the worker was separated, then the worker is not eligible for RTAA. The State must make the determination based on the individual application of the worker. A firm, together with any predecessor or successor-in-interest, or together with any affiliated firm controlled or substantially owned by substantially the same persons, is considered a single firm. If the State determines that the reemployment is with a successor-in-interest the State also must seek to identify any additional members of the worker group and notify them of their potential eligibility under the TAA Program, as provided in § 618.816(e).

(3) *Successor-in-interest factors.* A State may consider a firm a successor-in-interest to another firm, if a majority of the following factors are present:

(i) There is continuity in business operations.

(ii) There is continuity in location.

(iii) There is continuity in the workforce.

(iv) There is continuity in supervisory personnel.

(v) The same jobs exist under similar conditions.

(vi) There is continuity in machinery, equipment, and process.

(vii) There is continuity in product/service.

(4) *Year.* For purposes of RTAA, a year represents the 12-month period beginning with the first full week of qualifying reemployment.

(c) *Full-time employment.* For purposes of RTAA, full-time employment is defined per State law in which the reemployment occurs.

(1) If there is no State law addressing the definition of full-time employment referenced under paragraph (a)(4)(i) of this section, the State must issue a definition of full-time employment for RTAA purposes.

(2) The State must verify reemployment and do so in accordance with State policies.

(3) Where an AAW seeks to establish RTAA eligibility based upon more than one job, the State must combine employment hours in order to determine whether the worker has the number of hours needed to qualify for RTAA.

(4) If the AAW is employed in more than one State, the State must determine full-time employment for the entire duration of the AAW's RTAA eligibility under a single certification under the law of the State in which the AAW has the lowest threshold of hours required to meet the definition of full-time employment.

(d) *Relevance of UI eligibility.* UI eligibility is not a requirement for RTAA eligibility.

(e) *Eligible employment.* (1) Employment for purposes of paragraph (a)(4) of this section must be covered employment under State law; however, employment may not include activity that is unlawful under Federal, State, or local law.

(2) Work involving wages plus commission or piece work may be considered qualifying employment for the purpose of establishing RTAA eligibility, if it otherwise meets the criteria in paragraph (e)(1) of this section.

(3) For purposes of meeting the requirements of paragraphs (a)(4)(i) and (ii) of this section, employment may include one or more jobs unless, in the case of paragraph (a)(4)(i) of this section, the law of the State in which the AAW is employed provides otherwise.

(4) A State must count hours in which an AAW is on employer-authorized leave as hours of work for purposes of meeting the requirements of paragraphs (a)(4)(i) and (ii) of this section unless, in the case of paragraph (a)(4)(i) of this section, the law of the State in which the worker is employed provides otherwise.

§ 618.510 Eligibility period for payments of Reemployment Trade Adjustment Assistance and application deadline.

(a) *Adversely affected worker who has not received TRA.* (1) In the case of an AAW who has not received TRA, the worker may receive benefits as described in § 618.520(a) for a period not to exceed 104 weeks beginning on the earlier of:

(i) The date on which the worker exhausts all rights to UI based on the

separation of the worker from the adversely affected employment that is the basis of the certification; or

(ii) The date on which the worker first begins qualifying reemployment as described in § 618.505(e).

(2) Where a worker has more than one separation from adversely affected employment, the relevant separation for determining the date on which the ''worker exhausts all rights to UI'' referenced in paragraph (a)(1)(i) of this section is the worker's last separation from adversely affected employment that qualifies the worker as an AAW. The Department uses the last separation because that separation is the one that triggers the worker's application for RTAA. Accordingly, the State must determine the worker's last separation for lack of work from adversely affected employment before the RTAA application. This principle applies only to the determination of the eligibility period and does not apply to the calculation of RTAA payments, where wages at separation are defined as the annualized hourly rate at the time of the most recent separation, as explained in § 618.520(a).

(b) *Adversely affected worker who has received TRA.* In the case of an AAW who has received TRA, the worker may also receive RTAA benefits based on the same certification for a period of 104 weeks beginning on the date on which the worker first begins qualifying reemployment, reduced by the total number of weeks for which the worker received such TRA.

(c) *Applicable dates.* To make the RTAA determination, the State will need to know the applicable dates for the AAW: The date of reemployment and either the date the worker exhausted all rights to UI, or the dates the worker began and ended receipt of TRA before the date of reemployment. These dates must occur within the 104-week eligibility period identified in the Act.

(d) *Age of AAW when obtaining RTAA-qualifying employment.* An AAW may obtain employment before turning 50 years old and receive RTAA benefits after turning 50 years old, if the employment is determined to be RTAA-qualifying reemployment, as provided at § 618.505(e), and the RTAA eligibility period established after obtaining such employment has not expired when the individual turned 50 years old.

(e) *Exception to filing deadline and eligibility periods.* The filing deadline and eligibility periods in paragraphs (a) and (b) of this section do not apply where:

(1) A negative determination on a petition filed under subpart B of this part has been appealed to the USCIT;

(2) A certification of the worker group covered by that petition is later made; and

(3) The delay in the certification is not attributable to the petitioner or the AAW.

(f) *Reasonable accommodation of filing deadline and eligibility periods.* In the event the filing deadline and eligibility periods in paragraphs (a) and (b) of this section do not apply because the certification meets the conditions in paragraph (e) of this section, the filing deadline and eligibility periods for RTAA will be extended by the State for the period necessary to make RTAA reasonably available to AAWs.

§ 618.515 Continuing eligibility and timing of payments.

(a) *Continuing eligibility for RTAA.* (1) Changing jobs during reemployment does not disqualify an otherwise eligible AAW from receiving subsequent RTAA payments for the remainder of the 104-week (2-year) eligibility period if the new reemployment meets the requirements of § 618.505.

(2) An AAW already receiving RTAA payments who has a period of unemployment will not be eligible to receive RTAA for that period. Upon reemployment, the AAW must notify the State. If the new reemployment meets the requirements of § 618.505 and the worker meets all other eligibility requirements in this part, the AAW will be eligible to receive RTAA in accordance with the requirements of this section for the remaining portion of the 104-week (2-year) eligibility period.

(3) If during a year during the 2-year eligibility period an AAW's cumulative wages exceed, or are projected to exceed, $50,000, the AAW will no longer be eligible to receive additional RTAA payments within that year. The AAW will be eligible for RTAA benefits in the next year and RTAA payments will resume until wages exceed, or are projected to exceed, $50,000, or until the $10,000 benefit limit is reached.

(4) If the worker is employed part-time (at least 20 hours per week) and receiving RTAA while in TAA approved training, the State must verify participation in training on a monthly basis. Verification of participation in TAA approved training will be conducted in accordance with State policies. States may use training benchmarks, described at § 618.660, as a method of verification of participation.

(b) *Timing of RTAA payments.* The State must make RTAA payments on a regular basis, either weekly, biweekly, or monthly, for no more than a 104-week (2-year) period for an AAW under any one certification, beginning no earlier than the first day of reemployment that satisfies the requirements of § 618.505. An AAW may receive retroactive payments, in a lump sum, for payments for which the AAW was eligible, but for which the AAW had not yet applied.

(c) *Periodic verification of employment and reemployment wages.* No less than once a month, the State must review whether an AAW receiving RTAA payments continues to meet the eligibility requirements of § 618.505 and determine whether changes have occurred in the AAW's reemployment wages, as described in § 618.520(a).

(d) *Change in reemployment wages.* The State must recompute the appropriate amount of the RTAA payments if, during its review under paragraph (c) of this section, it determines that an AAW's reemployment wages have changed.

(1) If reemployment wages exceed, or are projected to exceed, $50,000 in a year during the eligibility period, then the State must immediately issue a determination that the AAW is ineligible for further RTAA payments, notify the AAW of this determination, and cease such RTAA payments.

(2) If reemployment wages change but do not exceed $50,000 in a year during the eligibility period then the RTAA payment must be recomputed every time such a change in reemployment wages occurs. The State must then continue periodic verification in accordance with paragraph (c) of this section, or recommence periodic verification if RTAA payments resume in the second year after such scenario as described in paragraph (a)(3) of this section occurs.

§ 618.520 Benefits available to eligible adversely affected workers.

(a) *Payment.* A RTAA-eligible AAW may receive a maximum of $10,000 over a period of not more than 104 weeks (2 years). If the AAW received TRA, each week of TRA received reduces the total weeks of RTAA available by 1 week and reduces the total RTAA payment amount available in proportion to the reduction in the number of total weeks.

(1) *Total amount of benefits.* RTAA supplements a worker's wages for up to 104 weeks (2 years) (reduced by the number of weeks of TRA received) or $10,000 (reduced in proportion to the reduction in the number of total weeks of TRA received), whichever occurs first, by an amount equal to the annualized wage differential as computed under paragraph (a)(2) of this

section for an AAW employed full-time or paragraph (a)(3) of this section for an AAW employed less than full-time.

(2) *Annualized wage differential for initial eligibility of an AAW employed full-time.* This amount is equal to 50 percent of: The AAW's annualized separation wages (as computed under paragraph (a)(2)(i) of this section) minus the amount of the AAW's annualized reemployment wages (as computed under paragraph (a)(2)(ii) of this section).

(i) Annualized separation wages are the product of the AAW's hourly rate during the last full week of the AAW's regular schedule in adversely affected employment, multiplied by the number of hours the AAW worked during the last full week of such employment, multiplied by 52. The computation of annualized wages at separation excludes employer-paid health insurance premiums and employer pension contributions, as well as bonuses, severance payments, buyouts, and similar payments not reflective of the AAW's weekly pay. [(hourly rate × hours worked) × 52]

(ii) Annualized reemployment wages are the product of the AAW's hourly rate during the first full week of reemployment, multiplied by the number of hours the AAW worked during the first full week of such reemployment, multiplied by 52 [(hourly rate × hours worked) × 52]. If the AAW's wages from reemployment change during the eligibility period, then the State must recompute the AAW's annualized wages from reemployment at the new hourly wage and must likewise recompute the appropriate RTAA payment as required by § 618.515(d). The computation of annualized wages from reemployment excludes employer-paid health insurance premiums and employer pension contributions, as well as bonuses, severance payments, buyouts, and similar payments not reflective of the AAW's weekly pay.

(3) *Annualized wage differential for initial eligibility of an AAW employed less than full-time.* This amount, for an AAW employed at least 20 hours per week and enrolled in TAA approved training, is the annualized wages as computed under paragraph (a)(2) of this section multiplied by the ratio of the AAW's number of weekly hours of reemployment to the AAW's number of weekly hours of employment at the time of separation, but in no case more than 50 percent.

(4) *Adjustment to total amount of RTAA benefits for AAWs who received TRA.* A State must adjust of the maximum RTAA benefit for an RTAA-eligible AAW who has received TRA. The RTAA-eligible AAW may receive up to the adjusted RTAA benefit as described in this section within the eligibility period as provided in § 618.510(b). RTAA eligibility is terminated once the AAW reaches either the number of weeks permitted pursuant to § 618.510 or the adjusted RTAA benefit. The adjusted RTAA benefit is calculated by subtracting the number of TRA paid weeks from the 104-week RTAA eligibility period to determine the percentage of reduced weeks that payments may be made. The maximum payable benefit of $10,000 is then reduced by the same percentage. Once the reduction in RTAA payable weeks and the reduction in the RTAA total payable are reduced by the same percentage, they become the new maximum number of payable weeks and maximum payable benefit.

(b) *Training and related services.* Recipients of RTAA are eligible to receive training approved under subpart F of this part and employment and case management services under subpart C of this part.

(c) *Job search and relocation allowances.* Recipients of RTAA are eligible to receive job search and relocation allowances under subpart D of this part, subject to the eligibility requirements and rules of subpart D.

(d) *HCTC.* Recipients of RTAA are eligible to apply for or claim the HCTC, if available.

(e) *TRA.* Once an AAW has received a payment under RTAA, the AAW is no longer eligible for TRA under the same petition. Receipt of TRA prior to RTAA will result in a reduction of RTAA benefits as described at paragraph (a)(4) of this section.

§ 618.525 Determinations, redeterminations, and appeals.

(a) *Determinations, redeterminations, and appeals.* States must apply the requirements of §§ 618.820 (determinations of eligibility; notices to individuals) and 618.828 (appeals and hearings), respectively, to all determinations, redeterminations, and appeals under this subpart.

(1) Before issuing a determination or redetermination, the State must verify and document the AAW's age, reemployment, and wages in determining whether the worker has met eligibility requirements of § 618.505(a).

(2) A determination of eligibility issued to an AAW must include a notice that the benefit amount will be regularly recomputed (as required by § 618.515(d)) and will change if the eligible AAW's reemployment wages change.

(3) An AAW denied individual eligibility based on nonqualifying reemployment may file a new application for a subsequent reemployment.

(4) A State may approve an RTAA payment retroactively if an AAW becomes reemployed before the Department issues a certification under subpart B of this part, provided that the AAW otherwise meets the eligibility requirements of § 618.505(a).

(b) *Recordkeeping requirements.* The recordkeeping and disclosure of information requirements of § 618.852 apply to the State's administration of RTAA.

§ 618.530 Reductions of Reemployment Trade Adjustment Assistance payments; priority of payments.

(a) *Ordered child support payments.* State laws regarding deductions of payments from UI, TRA, and RTAA must comply with the Social Security Act (SSA). SSA section 303(e)(1) defines child support obligations as only including obligations which are being enforced pursuant to a plan described in section 454 of SSA which has been approved by the Secretary of Health and Human Services under part D of title IV of SSA. SSA does not otherwise permit deductions for alimony or for child support.

(b) *Priority of UI payments.* RTAA does not fit into priority of payments under UI because RTAA is related to employment, not unemployment. UI and RTAA are two separate programs that operate independently of one another.

Subpart F—Training Services

§ 618.600 Scope.

This subpart sets forth the conditions and procedures under which a trade-affected worker may apply for and receive training to help secure reemployment. Training provided under this subpart must, at a reasonable cost and as quickly as possible, assist a trade-affected worker in obtaining the necessary skills to have a reasonable expectation of reemployment. All else being equal, States should prefer training that replaces 100 percent or more of a trade-affected worker's wages in adversely affected employment or that qualifies as suitable employment.

§ 618.605 General procedures.

(a) *Assessments.* The State must ensure and document that every trade-affected worker has an initial assessment and that a comprehensive and specialized assessment is made

available, as described in subpart C of this part. If a worker refused to take an assessment, the information necessary to determine eligibility for training must be documented. If a trade-affected worker has an IEP, the assessment results must support the training program set out in the worker's IEP, as described in subpart C of this part, before an application for training is approved. As with assessments, if a worker refused to develop an IEP, the information necessary to determine eligibility for training must be documented.

(b) *Applications.* Applications for training, including requests for TAA Program-funded transportation and subsistence payments, must be made to the State in accordance with any policies and procedures established by the State.

(c) *Determinations.* Decisions on selection for, approval of, or referral of a trade-affected worker to training, including whether to provide TAA Program-funded transportation and subsistence payments, under this subpart, or a decision with respect to any specific training or nonselection, nonapproval, or nonreferral for any reason is a determination to which §§ 618.820 (determinations of eligibility; notices to individuals), 618.824 (liable State and agent State responsibilities), and 618.828 (appeals and hearings) apply.

(d) *Training opportunities.* (1) The State must explore, identify, and secure training opportunities to ensure trade-affected workers return to employment as soon as possible. States must use all necessary and reasonable means to find alternatives when local training resources cannot adequately train trade-affected workers for reemployment. Training resources may be inadequate when they cannot train workers quickly, or at a reasonable cost, or equip workers with skills that meet the demands of the job market.

(2) When available training is inadequate, TAA Program funds may be used to create customized, group training opportunities in response to a particular dislocation event. Funds may be used for trainings that provide intensive remedial education classes, English language training, or contextualized occupational training, which combines academic and occupational training. These group trainings must adhere to the principles described in § 618.600.

(3) States are required to coordinate with other public and private agencies, in cooperation with local workforce development boards (LWDBs) established under WIOA, to ensure a wide-range of training opportunities are available to trade-affected workers in demand occupations.

(e) *Timing of application and approval of training.* A trade-affected worker may apply for training and a State may approve training at any time after the certification date on which his or her worker group is certified under subpart B of this part, without regard to whether such worker has applied for or exhausted all rights to any UI to which the worker is entitled.

§ 618.610 Criteria for approval of training.

The State must consult the trade-affected worker's assessment results and IEP, if available, as described respectively under §§ 618.345 and 618.350, before approving an application for training. Training must be approved for a trade-affected worker if the State determines that all of the criteria in paragraphs (a) through (f) of this section are met:

(a) *Criterion 1.* There is no suitable employment available for the trade-affected worker.

(1) There is no suitable employment available for a trade-affected worker in either the commuting area or another area outside the commuting area to which the worker intends to relocate, and there is no reasonable prospect of such suitable employment becoming available for the worker in the foreseeable future.

(2) If a training program, or an application for training, is denied under paragraph (a)(1) of this section, the State must document the availability of suitable employment through traditional and real-time labor market information including, but not limited to, projections data, job postings, and job vacancy surveys.

(b) *Criterion 2.* The trade-affected worker would benefit from appropriate training.

(1) The worker would benefit from appropriate training when training, skills training, or remedial education would increase the likelihood of obtaining employment. Appropriate training should improve the worker's chances of obtaining employment at higher wages than in the absence of training or place the worker on a pathway to do so.

(2) The worker must have the knowledge, skills, and abilities to undertake, make satisfactory progress in, and complete the training program.

(c) *Criterion 3.* There is a reasonable expectation of employment following completion of such training. Given the labor market conditions expected to exist at the time of the completion of the training program, a reasonable expectation, fairly and objectively considered, exists that the trade-affected worker is likely to find employment, using the skills and education acquired while in training, upon completion of approved training. The labor market conditions considered must be limited to those in the worker's commuting area, or in the area where the worker intends to relocate.

(1) ''A reasonable expectation of employment'' does not require that employment opportunities for the worker be available, or offered, immediately upon the completion of the approved training program. When initially approving such training, there must be a projection, based on labor market information, of employment opportunities expected to exist at the time of completion of the training program.

(2) The State must measure expected job market conditions using pertinent labor market data, including but not limited to job order activity, short-term projections data, job vacancy surveys, business visitation programs, and local and regional strategic plans. This labor market information should be documented in the trade-affected worker's case file. The State should also work with the LWDBs and their one-stop partners, especially business team members, to understand current labor market conditions and opportunities for work-based learning.

(3) When a worker desires to relocate within the United States, but outside the worker's present commuting area, upon completion of training, the State must document the labor market information, described in paragraph (c)(2) of this section, for the area of the planned relocation.

(4) A reasonable expectation of employment may exist in a limited demand occupation for a single, trained worker in the worker's commuting area or in an area to which the worker desires to relocate. A limited demand for such an occupation does not preclude the approval of training in an occupation where the State has determined that there is a reasonable expectation that the worker can secure employment in that occupation. States must verify with businesses in the commuting area or in the area of intended relocation that demand exists for an individual with such training. These efforts must be documented in the trade-affected workers case file. Before approving training in occupations with limited demand, the State must consider the number of individuals currently enrolled in training that are likely to meet that

demand before enrolling additional workers in training for that occupation.

(5) A State may approve a training program in an occupation if it finds that there is a reasonable expectation that the training will lead to self-employment in the occupation for which the worker requests training and that such self-employment will provide the worker with wages or earnings at or near the worker's wages in adversely affected employment.

(6) Training programs that consist solely of OJT or contain an OJT component are not approvable if they are not expected to lead to suitable employment, with the employer providing the OJT, in compliance with section 236(c)(1)(B)(i) of the Act.

(d) *Criterion 4.* Training is reasonably available to the trade-affected worker. In determining whether training is reasonably available, States must first consider training opportunities available within the worker's commuting area. States may approve training outside the commuting area if none is available at the time in the worker's commuting area. Whether the training is in or outside the commuting area, the training program must be available at a reasonable cost as prescribed in paragraph (f) of this section.

(e) *Criterion 5.* The trade-affected worker is qualified to undertake and complete such training. States must ensure the following:

(1) The worker's knowledge, skills, abilities, educational background, work experience, and financial resources are adequate to undertake and complete the specific training program being considered.

(2) Any initial assessment, comprehensive and specialized assessment, and IEP developed under subpart C of this part must be consulted to support the trade-affected worker's ability to undertake and complete the training program.

(3) Where the worker's remaining available weeks of UI and TRA payments will not equal or exceed the duration of the training program, that the worker will have sufficient financial resources to support completion of the training program within the time limits noted in § 618.615(d). In making this determination, the State must consider:

(i) The worker's remaining weeks of UI and TRA payments in relation to the duration of the proposed training program;

(ii) Other sources of income support available to the worker, including severance, earnings of other family members, and other family resources;

(iii) Other fixed financial obligations and expenses of the worker and family;

(iv) The availability of Federal student financial assistance or any State-funded student financial assistance or any private funding designated for student financial assistance including, but not limited to, nongovernmental scholarships, awards, or grants; and

(v) Whether or not the worker is employed while attending training.

(4) The State must document whether or not the trade-affected worker has sufficient financial resources to complete the training program that exceeds the duration of UI and TRA payments.

(5) If a worker has insufficient financial resources to complete the worker's proposed training program that exceeds the duration of UI and TRA payments, then the State must not approve that training program and must instead consider other training opportunities available to the worker.

(f) *Criterion 6.* Such training is suitable for the trade-affected worker and available at a reasonable cost.

(1) *Suitable for the worker.* The training program being considered must address the criteria set out in paragraphs (e)(1) and (2) of this section and be determined by the State to be appropriate given the worker's knowledge, skills and abilities, background, and experience relative to the worker's employment goal, and criteria set out in paragraph (c) of this section.

(2) *Available at a reasonable cost.* (i) Costs of a training program may include, but are not limited to, tuition and related expenses (*e.g.,* books, tools, computers and other electronic devices, internet access, uniforms and other training-related clothing such as goggles and work boots, laboratory fees, and other academic fees required as part of the approved training program) as well as supplemental assistance (subsistence expenses and transportation expenses as described in § 618.640(c) and (d)). States must pay the costs of initial licensing and certification tests and fees where a license or certification is required for employment.

(A) The State must ensure and document that the training program costs are reasonable by researching costs for similar training programs, whether it is classroom or work-based training.

(B) Related expenses must be necessary for the worker to complete the training program. Other options should be explored before purchasing equipment or related materials.

(ii) Available at a reasonable cost means that training must not be approved at one provider when, all costs being considered, training better or substantially similar in quality, content, and results can be obtained from another provider at a lower total cost within a similar time frame. Training must not be approved when the costs of the training are unreasonably high in comparison with the average costs of training other workers in similar occupations at other providers. The State may approve a higher cost training if that training is reasonably expected to result in a higher likelihood of employment, employment retention, or greater earnings, or to return the worker to employment in a significantly shorter duration.

(iii) Training at facilities outside the worker's commuting area requiring transportation or subsistence payments that add substantially to the total cost of the training program may not be approved if other appropriate training is available in the commuting area at a lower cost, unless the exception described in paragraph (f)(2)(ii) of this section applies.

(iv) Approval of training under paragraph (f) of this section (Criterion 6) is also subject to the provisions of § 618.650.

§ 618.615 Limitations on training approval.

(a) *One training program per certification.* (1) Except as provided under paragraph (d)(4) of this section, no trade-affected worker may receive more than one approved training program under a single certification.

(2) A training program may be amended, as needed, in compliance with § 618.665.

(3) A training program may consist of multiple forms of training, including any or all of the types of training identified in § 618.620, subject to any restrictions or eligibility requirements that may exist.

(b) *Full-time or part-time training.* A State may approve a training program on a full-time or part-time basis. A trade-affected worker's approved training program may consist of either part-time or full-time training, or a combination of both. A worker may switch from part-time to full-time training or from full-time to part-time training during the period of the worker's participation in the program. The training program must be amended each time this occurs, in accordance with § 618.665.

(1) *Full-time.* Full-time training means that the training is in accordance with the definition of *full-time training* provided in § 618.110.

(2) *Part-time.* (i) A State may approve part-time training. Part-time training is any training program that is not full-

time in accordance with the established standards of the training provider. The maximum duration for approved training provided in paragraph (d)(3)(i) of this section also applies to part-time training.

(ii) A worker enrolled in part-time training is not eligible for TRA under subpart G of this part, including a worker who ceases full-time training to engage in part-time training. The training approval requirements found in this section also apply to part-time training.

(iii) A worker may participate in part-time training while employed in either part-time or full-time employment.

(iv) The State must clearly inform the worker, before the worker chooses part-time training, that TRA is not available to workers in approved part-time training and that the worker may lose eligibility for the HCTC, if available, while engaged in part-time training.

(v) As provided in § 618.780(b)(1)(i), a worker may not be determined to be ineligible or disqualified for UI, because the worker is enrolled in training approved under § 618.610, including part-time training.

(vi) As further described at § 618.780(b)(1)(ii), State or Federal UI statutes relating to the able, available, or active work search requirements as well as refusal to accept work will not disqualify a worker for UI or other program benefits, during any week of training approved under § 618.610, including part-time training.

(c) *Previous approval of training under other law.* When a TAA Program petition has been filed by or on behalf of a group of workers but a determination of group eligibility has not been made, training may be approved for a worker under another State or Federal law or other authority. Training approved for a worker under another State or Federal law or other authority is not training approved under § 618.610. After eligibility has been determined, any such training may be approved under § 618.610 (criteria for approval of training), if it meets all of the requirements and limitations of § 618.610 and the other provisions of this subpart. Such approval must not be retroactive for any of the purposes of this part, including payment of the costs of the training and payment of TRA to the trade-affected worker participating in the training, except in the case of a redetermination or decision reversing a training denial as addressed in § 618.828(d), in which case the approval must be retroactive to the date of that denial. Systems must be in place to accommodate a change in funding seamlessly, as appropriate, after TAA Program training program approval is obtained. The cost of training must shift to the TAA Program at the next logical break in training—such as the end of a semester—for workers who become eligible for the TAA Program and whose training is approved under the TAA Program. Training approved under other programs may be amended by the TAA Program to allow a worker additional training in order to meet additional retraining needs identified in the worker's IEP.

(d) *Length of training.* The State, in determining whether to approve a training program, must determine the appropriateness of the length of training, as follows:

(1) *Time necessary to achieve desired skill level.* The training must be of suitable duration to achieve the desired skill level in the shortest possible time, and not in excess of, the limits established in paragraph (d)(3) of this section.

(2) *Factors.* Factors that may impact the length of training include, but are not limited to, the trade-affected worker's employment status (full- or part-time) under § 618.630 (Training of reemployed trade-affected workers), the need for supportive services from partner programs, and breaks in training due to class schedules and availability.

(3) *Duration.* (i) Except as otherwise provided for OJT, apprenticeship, and the exception provided in paragraph (d)(4) of this section, the maximum duration for approvable training under the TAA Program is 130 weeks.

(ii) Only weeks spent in actual training are counted. Scheduled breaks in training, as provided in § 618.760, are not counted.

(iii) If a training program satisfies the duration requirement of paragraph (d)(3)(i) of this section but will extend beyond the period during which TRA is available, the State must determine, under § 618.610(e)(3) (criteria for approval of training), whether the worker has sufficient personal resources (*i.e.,* funds for the worker's living expenses) to support himself or herself while completing the training, while not requiring the worker to obtain such funds as a condition of training approval. The worker must attest to the State that he or she has sufficient resources to sustain himself or herself while in training.

(4) *Exception for certain workers who perform a period of duty in the Uniformed Services.* A member of one of the reserve components of the U.S. Armed Forces who serves a period of duty will have the period for training, under paragraph (a)(3) of this section, suspended upon being called up to duty, provided the requirements specified in paragraphs (a)(4)(i) through (iii) of this section are met. Any such reserve component member may either resume training upon discharge from active service for the training period that remained at the time the reservist left the training program to report for active duty, or be allowed to repeat portions of the training if doing so is necessary for completion of the approved training program or, where appropriate, begin a new approved training program. Where the reservist repeats a training program or begins a new training program, the reservist will be entitled to a new 130-week period to complete approved training. To be eligible to resume, repeat, or begin a new approved training program, the reservist must meet the following requirements:

(i) Before completing training under this subpart, the worker has given prior oral or written notice of the active duty service to the State, unless providing such notice is precluded by military necessity or is otherwise impossible or unreasonable.

(ii) The returning service member must apply to the State for training within 90 days following release from active duty service.

(iii) For purposes of the exception in this paragraph (d)(4), period of duty means:

(A) Serves on active duty for a period of more than 30 days under a call or order to active duty of more than 30 days; or

(B) In the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performs full-time National Guard duty under 32 U.S.C. 502(f) for 30 consecutive days or more when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

(e) *Training outside the United States.* A trade-affected worker must not be approved for training under this subpart for any training that is conducted totally or partially at a location outside the United States or if the worker is physically located outside the United States while participating in training. For distance training, this means both the provider and participant must be located within the United States.

§ 618.620 Selection of training program.

(a) *Standards and procedures for selection of training.* The State must document the standards and procedures used to select training providers and training(s) in which the training

program under this subpart will be approved.

(1) In determining the types of training to be approved and provided under the standards, the State should consult with partner agencies, including State partner agencies (*e.g.,* State apprenticeship agencies or Federal Offices of Apprenticeship located in the States), WIOA one-stop partners, local employers, appropriate labor organizations, local educational organizations, the LWDB, State and local apprenticeship programs, local advisory councils established under the Strengthening Career and Technical Education for the 21st Century Act (Pub. L. 115–224 (2018), as codified at 20 U.S.C. 2301 *et seq.*), and postsecondary institutions.

(2)(i) States may choose an eligible training provider (ETP) established under WIOA section 122 without establishing additional standards or procedures under the TAA Program.

(ii) As provided in section 236 of the Act, States must not limit training approved under this section to only programs on the ETP list under title I of WIOA.

(b) *Training types.* Eligible trade-affected workers must be provided training using either one, or a combination of, the following methods:

(1) Work-based training, such as apprenticeships, OJT, or customized training, may be approved for AAWs. Customized training with the worker's current employer may only be approved for AAIWs if the training is for a position other than the AAIW's threatened position. See § 618.655(c)(2). AAIWs must not be approved for OJTs. See § 618.655(c)(1). The State must inform the worker of the potential negative effects of work-based training on TRA and the HCTC, if available; or

(2) Institutional training, including training at public area career and technical education schools, as well as community colleges, may be approved alone or in combination with work-based training. This also includes distance learning, including online training, where a worker may complete all or part of an educational or vocational program in a geographical location apart from the institution hosting the training program, and where the final certificate or degree conferred is equivalent in standard of achievement and content to the same program completed on campus or at another institutional training location.

(i) A provider of the distance learning must be based in the United States for training provided to be approved. In addition, the worker must be physically within the United States when participating in distance learning to remain eligible for benefits under the Act.

(ii) Distance learning is subject to all training approval criteria described in this subpart.

(iii) The State must establish and monitor the milestones of a distance-learning program based on the worker's IEP, as described in subpart C of this part, if available.

(iv) A worker who does not meet the requirements or milestones of a distance-learning program may be determined to have ceased participation in training, as described in § 618.780(b)(3)(ii).

(3) Higher education includes any training or coursework at an accredited institution, as described in section 102 of the Higher Education Act of 1965, as amended (20 U.S.C. 1002), including training or coursework for the purpose of obtaining a degree or certification, or for completing a degree or certification that the worker had begun previously at an accredited institution of higher education. Higher education may be approved alone or in combination with work-based training. The distance learning requirements in paragraph (b)(2) of this section also apply to this paragraph (b)(3).

(c) *Other training.* In addition to the training programs discussed in paragraph (b) of this section, training programs that may be approved under § 618.610 (criteria for approval of training) include, but are not limited to:

(1)(i) Any program of remedial education, including ABE courses and other remedial education courses, ELA courses, and HSE preparation courses.

(ii) Remedial education may occur before, or while participating in, the requested training program;

(2) Career and technical education;

(3) Any training program approvable under § 618.610 for which all, or any portion, of the costs of training the trade-affected worker are paid:

(i) Under any other Federal or State program other than the TAA Program; or

(ii) From any source other than this part;

(4) Any training program provided by a State pursuant to title I of WIOA or any training program approved by an LWDB established under section 102 of WIOA;

(5) Any program of prerequisite education or coursework required by a training provider before advancing to further training; or

(6) Any other training program approved by the State that complies with this subpart.

(d) *Advanced degrees.* Training programs that will lead to an advanced degree may be approved; however, the time limits described at § 618.615(d)(3) must be met. States may not restrict access to advanced degrees where the other criteria of this subpart are met. All training programs must be evaluated on their individual merit.

§ 618.625 Payment restrictions for training programs.

(a) *Funding of training programs.* The costs of a training program approved under the Act may be paid:

(1) Solely from TAA Program funds;

(2) Solely from other public or private funds; or

(3) Partly from TAA Program funds and partly from other public or private funds.

(b) *No duplication of costs allowed.* (1) Any use of TAA Program funds to duplicate the payment of training costs by another source is prohibited.

(2) When the payment of the costs of training has already been made under any other Federal law, or the costs are reimbursable under any other Federal law and a portion of the costs has already been paid under other such Federal law, payment of such training costs may not be made from TAA Program funds.

(3) When the direct costs of a training program approvable under § 618.610 (criteria for approval of training) are payable from TAA Program funds and are also wholly or partially payable from any other source, the State must establish procedures to ensure TAA Program funds will not duplicate funds available from the other source(s). This preclusion of duplication does not prohibit and should not discourage sharing of costs under prearrangements authorized under paragraph (c)(2) of this section.

(c) *Cost sharing permitted.* (1) TAA Program funds are the primary source of Federal assistance to trade-affected workers, as identified in § 618.804(h)(4). If the costs of training a trade-affected worker can be paid under the TAA Program, no other payment for such costs may be made under any other provision of Federal law.

(2) States may share training costs with authorities administering other non-Federal, State, and private funding sources. Sharing training costs with other Federal sources may only occur if TAA Program funds are not available to cover the total cost of training, as described in paragraph (d)(2)(ii) of this section.

(3) Sharing the future costs of training is authorized where prior costs were paid from another source, but this paragraph (c)(3) does not authorize reimbursement from TAA Program

funds of any training costs that were accrued before the date the training program was approved under the TAA Program.

(4) When a mix of TAA Program funds and other funds are used for paying the costs of a training program approved under this subpart, the State must enter into a prearrangement with any entity providing the other source of funds. Any such prearrangement must contain specific commitments from the other authorities to pay the costs they agree to assume and must comply with the nonduplication provisions contained in this part.

(i) Agreements may be entered into on a case-by-case basis to address specific training situations of workers or they may be part of an overall statewide strategy to effectively use and maximize available resources from the TAA Program, workforce development, and other programs.

(ii) Where training costs are shared between the TAA Program and any other funding source, the State must enter into a prearrangement with the other funding source to agree upon the proportion of TAA Program funds and other funds to be used to pay the costs of a training program. A prearrangement must be a specific, binding agreement with the other source(s) to pay the costs they agree to assume, and must be entered into before any TAA Program funds are obligated. If, after TAA Program funds are already committed to a training program, other funds become available to pay for that training, the State may decide to share the costs of the remainder of training program or the State may continue funding the training program in full using TAA Program funds. If the State decides to share the costs, it must enter into a prearrangement with respect to the newly available funds. If the State makes a change to how the training program will be funded going forward, the existing training program must be amended in accordance with § 618.665.

(iii) Before approving any training program under this subpart, which may involve the sharing of training costs under the authority of paragraph (a)(3) of this section, the State must require the worker to enter into a written agreement with the State, under which TAA Program funds will not be applied for or used to pay any portion of the costs of the training the worker has reason to believe will be paid by any other source.

(5)(i) A State may not take into account Federal student financial assistance, including Pell Grants, or any funds provided under any other provision of Federal law that are used for purposes other than the direct payment of training costs, even though they may have the effect of indirectly paying all or a portion of the training costs.

(ii) States must ensure that upon the approval of a training program under this subpart, payments of Federal student financial assistance cease to be applied to the training participant's tuition or other training-related costs covered by TAA Program funds.

(iii) If payments of Federal student financial assistance or other training allowances from other Federal funding sources were made to the training provider instead of the worker and were applied towards the worker's approved training costs, the State must deduct the amount of those other payments from the amount of TAA Program funds payable to the training provider in order to prevent duplication in the payment of training costs.

(iv) A worker may use Federal student financial assistance for other expenses, as allowable under applicable rules for such financial assistance.

(6) If the worker's trade-affected firm agrees to fund all or a portion of the worker's training costs, the State must, if the training is otherwise approvable, enter into a prearrangement with the firm to assume any unfunded training costs on the worker's behalf.

(d) *No training fees or costs to be paid by trade-affected worker from TAA Program funds.* (1) A training program must not be approved if the trade-affected worker is required to reimburse any portion of the costs of such training program from TAA Program funds, or from wages paid under such training program.

(2)(i) A training program must not be approved if the trade-affected worker is required to pay any of the costs of the training program from funds belonging to the worker, including funds from relatives or friends, or from personal or educational loans that will require repayment.

(ii) As required by § 618.940, if the Department determines that the amount of funds necessary to provide Training and Other Activities (TaOA) will exceed the annual cap under § 618.900 in a fiscal year, the Department will promptly inform the States. If a State estimates that it will exceed all available TAA Program training funds (including TaOA funds remaining from current or prior fiscal years) then the State must seek funding from other sources (other than from trade-affected workers), including WIOA national dislocated worker grants under part 687 of this chapter to cover the costs of training approved under § 618.610. To the extent that a State is unable to fund training costs from those other sources, the agency may approve training where the worker pays those unfunded costs. Where the worker chooses to pay those unfunded costs under this paragraph (d)(2)(ii), the State is not liable for paying those costs and must document this prearrangement in the worker's case file. Where the worker chooses not to pay the unfunded costs, the State must waive the training requirement in § 618.720(g) on the basis that training is not available, in order to preserve any remaining Basic TRA eligibility under § 618.735(b)(3) (waiver of training requirement for Basic TRA).

§ 618.630 Training of reemployed trade-affected workers.

(a) An AAW who obtains new employment and who has been approved for a training program may elect to terminate the employment, reduce the hours worked in the employment, or continue in full- or part-time employment. Such a worker is not subject to ineligibility or disqualification for UI or TRA as a result of such termination or reduction in employment. A worker who continues such full- or part-time employment while a participant in training is considered to be in training under § 618.780(b) (disqualifications). If the worker continues in full- or part-time employment while a participant in an approved training program, the State must inform the worker in writing that such employment may have negative effects on UI and TRA benefit amounts and duration due to income earned from the employment (and also because a worker participating in part-time training is not eligible for TRA), which could also lead to the loss of the HCTC, if available. The State must apply the earnings disregard provisions in subpart G of this part, as appropriate.

(b) An AAW who has been totally separated as described in paragraph (a) of this section may also be eligible for job search and relocation allowances under subpart D of this part.

§ 618.635 Work-based training.

(a) *OJT*—(1) *Description.* OJT is work-based training provided under contract with an employer in the public, nonprofit, or private sector to an AAW who is employed by the employer. OJT may be approved if the worker meets the requirements under §§ 618.610, 618.615, and 618.665. The State must determine that the OJT in question:

(i) Can reasonably be expected to lead to suitable employment with the employer offering the OJT;

(ii) Is compatible with the skills of the worker;

(iii) Includes a curriculum through which the worker will gain the knowledge or skills to become proficient in the job for which the worker is being trained; and

(iv) Can be measured by standards or targets that indicate the worker is gaining such knowledge or skills.

(2) *Related education.* Related skills training provided as part of the OJT contract and sponsored by the employer may be provided in conjunction with the OJT. Such training may be provided at the employment site, or at educational institutions, or other locations. TAA Program funds can be used to pay the OJT participant's expenses associated with the educational or instructional component (*e.g.,* classroom and distance learning, tools, uniforms, equipment, and books) for an AAW's participation in an OJT program.

(3) *Duration.* The OJT contract with the employer must specify the duration of the OJT. The duration of the OJT must be appropriate to the occupational goal for which the AAW is being trained, taking into consideration the skills requirements of the job for which the AAW is being trained, the academic and occupational skill level of the AAW, and the work experience of the AAW, as documented in the worker's IEP, if available. The duration of the training must be long enough for the worker to become sufficiently proficient in the occupation for which the training is being provided to enable the worker to perform as well as workers in comparable positions within the firm. The OJT:

(i) Must not exceed the specific vocational preparation required for the occupation, as listed on O*NET (*www.onetonline.org*); and

(ii) Must not exceed 104 weeks in any case.

(4) *Exclusion of certain employers.* The State may not enter into a contract for OJT with an employer that exhibits a pattern of failing to provide workers receiving OJT from the employer with:

(i) Continued long-term employment as regular employees; and

(ii) Wages, benefits, and working conditions that are equivalent to the wages, benefits and working conditions provided to regular employees who have worked a similar period of time and are doing the same type of work as workers receiving the OJT from the employer.

(5) *Reimbursement.* (i) Pursuant to the OJT contract, the employer is provided reimbursement of not more than 50 percent of the wage rate of the OJT participant, for the costs of providing the training and additional supervision related to the training.

(ii) The reimbursement for OJT must be limited to the duration of approved training as specified in the OJT contract.

(6) *Approval of the costs of OJT.* OJT costs for an AAW may be approved by a State only if a determination is made that:

(i) No currently employed individual is displaced (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) by the AAW;

(ii) Such training does not impair existing contracts for services or collective bargaining agreements;

(iii) In the case of training that would be inconsistent with the terms of a collective bargaining agreement, written concurrence has been obtained from the concerned labor organization;

(iv) No other individual is on layoff from the same or any substantially equivalent job for which the AAW is being trained;

(v) The employer has not terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy by hiring the AAW;

(vi) The job for which the AAW is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals;

(vii) The training is not for the same occupation from which the AAW was separated with respect to which the AAW's worker group is covered under a certification rendered under subpart B of this part;

(viii) The employer has not received payment under the TAA Program or under any other Federal law for any other OJT provided by such employer that failed to meet the requirements of this section or the requirements of the other Federal laws governing employment practices; and

(ix) The employer has not taken, at any time, any action that violated the terms of this section with respect to any other OJT provided by the employer for which the State has made a payment under the TAA Program.

(7) *Payment of the costs of OJT.* The costs of OJT that are paid from TAA Program funds must be paid in monthly installments.

(8) *TRA eligibility during OJT.* Under § 618.780(c), an AAW may not be paid TRA for any week during which the worker is in OJT and, therefore, may be ineligible for the HCTC, if available.

(9) *RTAA eligibility during OJT.* Participants enrolled in OJT may be eligible for RTAA. All the requirements at subpart E of this part must be met.

(10) *Use of WIOA funds for OJT.* TAA Program funds may be leveraged with WIOA funds to provide a reimbursement rate equal to that allowable under WIOA. See WIOA section 134(c)(3)(H) (29 U.S.C. 3174(b)(3)(H)).

(11) *No OJT for AAIWs.* The State must not approve OJT for AAIWs.

(b) *Customized training.* (1) Customized training is designed to meet the special requirements of a single employer or a group of employers. The training may be conducted by a training provider, a single employer, or group of employers.

(2) Customized training must be conducted with a commitment by the employer or group of employers to employ an AAW upon successful completion of the training. For purposes of customized training, a commitment by the employer(s) to employ a worker upon successful completion of the training, as required by section 236(f)(2) of the Act, means that the employer(s) must enter into an agreement with the State that describes the conditions that must be met for successful completion of the training and the expectation of employment after the training is completed.

(3) The employer must pay at least 50 percent for the cost of the training.

(4) For AAIWs, approval is limited to customized training for a position other than their current position in adversely affected employment. See § 618.655(c)(2).

(c) *Apprenticeship.* Apprenticeship includes registered apprenticeships under the Act of August 16, 1937 (commonly known as the National Apprenticeship Act; 50 Stat. 664, chapter 663; 29 U.S.C. 50 *et seq.*), as well as other training programs that include a paid work-based learning component and required educational or instructional component that results in the issuance of a recognized postsecondary credential, which includes an industry-recognized credential.

(1) *Duration.* Apprenticeships are not subject to the 104-week statutory duration of OJT training limit. The length of the paid work-based learning component must not exceed 130 weeks. However, the length of the educational or instructional training component of the apprenticeship may exceed 130 weeks and continue through the scheduled completion of that specific apprenticeship training.

(2) *Eligible apprenticeship expenses.* TAA Program funds can be used to pay for:

(i) The expenses associated with the educational or instructional component (*e.g.,* classroom and distance learning, tools, uniforms, equipment, and books) for the apprentice; and

(ii) The employer may be reimbursed not more than 50 percent of the apprentice's regular wage rate for the cost of providing the training and additional supervision related to the work-based learning component provided by the employer.

(3) *Exclusion of certain employers.* The State may not enter into a contract for apprenticeship with an employer that exhibits a pattern of failing to provide apprentices with successful attainment of an industry-recognized credential or the apprenticeship completion certificate in the case of registered apprenticeship, as issued by the U.S. Department of Labor or State apprenticeship agency.

(4) *Approval of the costs of apprenticeship*—(i) *Registered apprenticeships under the National Apprenticeship Act.* Costs for an apprenticeship program may be approved by a State only if the requirements of the National Apprenticeship Act, 29 CFR parts 29 and 30, and Departmental administrative guidance are met.

(ii) *Other apprenticeships.* Costs for an apprenticeship program may be approved by a State only if a determination is made that:

(A) No currently employed worker is displaced (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) by the apprentice;

(B) Such training does not impair existing contracts for services or collective bargaining agreements;

(C) In the case of training that would be inconsistent with the terms of a collective bargaining agreement, written concurrence has been obtained from the concerned labor organization;

(D) No other worker is on layoff from the same or any substantially equivalent job for which the apprentice is being trained;

(E) The employer has not terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created by hiring the apprentice;

(F) The job for which the apprentice is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed workers;

(G) The training is not for the same occupation as the apprentice's adversely affected employment;

(H) The employer has not received payment under the TAA Program or under any other Federal law for any other apprenticeship provided by such employer that failed to meet the requirements of this section or the requirements of the other Federal laws governing employment practices; and

(I) The employer has not taken, at any time, any action that violated the terms of this section with respect to any other apprenticeship provided by the employer for which the State has made a payment under the TAA Program.

(5) *TRA and HCTC eligibility during apprenticeships.* Workers enrolled in an apprenticeship program, in most cases, will not be able to access TRA income support due to their income earned through wages, but the State must still make individual determinations on TRA benefits. This could also impact HCTC eligibility, if HCTC is available. States must advise workers considering this training option of these issues.

(6) *RTAA eligibility during apprenticeships.* AAWs age 50 or older enrolled in an apprenticeship program may be eligible for RTAA under subpart E of this part.

(7) *State contract with apprenticeship employer.* The State must enter into a contract with the employer that provides the terms and conditions of the apprenticeship.

§ 618.640 Supplemental assistance.

(a) *General.* Supplemental assistance in the form of subsistence and transportation payments must be provided to a trade-affected worker whose training program has been approved under § 618.610 (Criteria for approval of training), to defray reasonable subsistence and transportation expenses while the worker attends training at a facility outside the worker's commuting area. The need for such subsistence and transportation payments must be documented on the worker's IEP, if available, or in the worker's case file. Subsistence and transportation payments may also be documented on a training approval form, or other such form as the State chooses, to ensure that the supplemental assistance is documented in the worker's case file.

(b) *Applications for supplemental assistance.* A trade-affected worker must submit an application for subsistence or transportation payments in accordance with subpart H of this part and processes established by the State. A determination on an application submitted under this section is subject to §§ 618.820 (determinations of eligibility; notices to individuals) and 618.828 (appeals and hearings).

(c) *Subsistence payments*—(1) *General.* Subsistence payments must be made for the reasonable costs of meals and incidental expenses, and of separate maintenance, which means maintaining temporary living quarters, when the training facility is located outside the trade-affected worker's commuting area.

(2) *Requirements for subsistence payments.* (i) A trade-affected worker must be reimbursed for subsistence only for the period when the worker is not receiving or authorized to receive reimbursement or separate payments for such costs from any other source.

(ii) Subsistence payments must not be made for any day such worker receives a daily commuting transportation payment from TAA Program funds or from any other source, except as specified in paragraph (e) of this section.

(iii) Subsistence payments must not be made for any day of unexcused absence from the training program, as certified by the training provider.

(3) *Amount of subsistence payments.* The State may make a subsistence payment to a trade-affected worker only for the lesser of:

(i) The worker's actual per diem expenses for subsistence; or

(ii) 50 percent of the prevailing per diem allowance rate authorized under the FTR (see 41 CFR chapters 300 through 304) for the location of the training facility.

(4) *Timing of subsistence payments.* The State must make subsistence payments upon a worker's completion of a week of training, but may advance a subsistence payment for a week if the State determines that such advance is necessary to enable the worker to participate in the approved training.

(d) *Transportation payments.* A trade-affected worker must be reimbursed for transportation expenses when commuting to and from a training facility located outside the worker's commuting area. Transportation expenses, funded by the TAA Program, are payable only for the actual days traveled. Mileage eligible for reimbursement is, round-trip, from the first mile outside the boundary of the worker's commuting area to the location of the training facility.

(1) Transportation payments must not be paid when:

(i) Transportation is arranged and paid for by the State for one or more workers;

(ii) Such payments are being provided under any other law; or

(iii) The worker is authorized to be paid or reimbursed for such expenses from any other source.

(2) The daily transportation payment may not exceed the amount of a daily subsistence payment that would be payable under paragraph (c)(3) of this section if the worker resided temporarily in the area of the training.

(3) In addition, while other forms of transportation may be used, transportation payments to a worker may not exceed the cost per mile at the prevailing personal vehicle mileage rate authorized under the FTR. See *http://www.gsa.gov.*

(4) A worker must receive transportation payments promptly after completion of a week of approved training, but at a minimum on a monthly basis. These payments also may be made in advance in order to facilitate the worker's attendance at the training.

(e) *When payment can be made for both subsistence and transportation.* A trade-affected worker receiving subsistence payments may also receive transportation payments only:

(1) At the beginning of the training that the worker is attending outside the worker's commuting area and at the end of the training for travel back to the worker's commuting area; or

(2) When the worker fails, for justifiable cause, as described in § 618.780(b)(3)(iii), to complete the training outside the worker's commuting area, and must return home before the scheduled end of the training.

(f) *Adjustments to subsistence and transportation payment advances.* If the State advances subsistence or transportation funds, the State must adjust subsequent subsistence and transportation payments to take into account the amount of the advance that is more or less than the amount that the trade-affected worker is entitled to receive under paragraphs (c) and (d) of this section.

(g) *Worker evidence.* The trade-affected worker must provide receipts for all lodging, purchased transportation expenses, and meals.

§ 618.645 Voluntary withdrawal from a training program.

(a)(1) The State must advise a trade-affected worker who chooses to withdraw from a TAA approved training program that the withdrawal may, subject to the requirements in subpart H of this part, result in an overpayment.

(2) The State must advise a worker who chooses to withdraw from a TAA approved training program that the withdrawal may, subject to the requirements in subpart G of this part, result in loss of eligibility for TRA.

(b) A trade-affected worker who qualifies for an exception for service in the Uniformed Services, under the criteria set out in § 618.615(d)(4), may voluntarily withdraw from a training program.

(c) A trade-affected worker who ceases participation in training for justifiable cause, as described in § 618.780(b)(3)(iii) (disqualifications), may resume the approved training program.

(d) The trade-affected worker's eligibility for job search and relocation allowances will not be affected by the decision to withdraw from training. To be eligible for these allowances, the worker must meet all eligibility requirements for these benefits as set forth in §§ 618.410 (job search allowances) and 618.440 (relocation allowances).

(e) If the trade-affected worker obtains suitable employment before training is completed yet remains in his or her training program:

(1) The State must continue funding the approved training program if training benchmarks, described at § 618.660, continue to be satisfactorily met.

(2) The State must consider whether to amend the worker's training program; and

(3) The State must discuss with the worker whether the training program continues to serve a useful purpose.

§ 618.650 State standards and procedures for establishing reasonable cost of training.

(a) A State is not prohibited from setting a statewide limit or limits for local workforce development areas on the amount of training costs considered reasonable and appropriate for training programs. Any limit(s) must reasonably take into account the costs of training available in the local workforce development areas throughout the State and the expenditure must be prudent under the standards of the Office of Management and Budget's (OMB's) Uniform Guidance (2 CFR 200.404) and its attendant interpretive administrative guidance. Additionally, States must comply with the standards for reasonableness in § 618.610(f)(2), including those permitting States to allow training other than the least-cost option if the extra cost is justified by better trade-affected worker outcomes or a faster return to the workforce. If the State chooses to implement a statewide limit, it must arrive at a reasonable limit based upon training costs throughout the State, recognizing that costs may vary significantly between urban areas and rural areas. The State must also develop and implement a method to exceed the limit(s), which must require the local area to secure State approval, as described in paragraph (b) of this section, before training is approved.

(b) The State must develop transparent standards and procedures that provide for prompt consideration of any request for approval of training costs that exceed the established training cost limit(s) set by the State under paragraph (a) of this section. The review standards developed by the State under this paragraph (b) must allow for approval of costs that exceed the applicable training cost limit when a training program that exceeds the cost limit(s) will provide the most reasonable way of returning a particular trade-affected worker to employment at higher wages—or on a pathway to do so—than in the absence of training.

(c) The State must propose an alternative training program consistent with the reasonable cost criteria, as described at § 618.610, when a training program is not approvable under the established limits and does not meet the requirements in paragraph (b) of this section.

(d) The State must review any limits established under paragraph (a) of this section on an annual basis to determine whether they are still appropriate, and change or end such limits when they no longer reasonably reflect the average cost of training available in the local workforce development areas throughout the State.

(e) Whenever a State establishes, changes, or ends State-established limits on training costs payable under paragraph (a) of this section, the State must provide written notice and full documentation supporting its action to the Department for review.

(f) States are not required to establish a limit on training costs.

§ 618.655 Training for adversely affected incumbent workers.

(a) *AAIW training.* Pursuant to sections 236(a)(1) and 247(18) of the Act, a State may approve training for an AAIW, or training for a worker before separation occurs. An AAIW may apply for training and a State may approve training at any time after the date on which the AAIW is determined to be individually threatened with layoff without regard to whether such worker has applied for or exhausted all rights to any UI to which the worker is entitled.

(b) *Threat of layoff.* A State may determine that a worker has been individually threatened with total or partial separation when the worker has

received a notice of termination or layoff from employment. Other documentation of a threat of total or partial separation from the firm or other reliable source may be accepted.

(c) *Approval of training.* Except as specified in this section, the provisions of this subpart extend to AAIWs. The following exceptions to the training approval requirements apply to AAIWs:

(1) The State may not approve OJT under § 618.635(a) for AAIWs.

(2) Customized training for AAIWs under § 618.635(b) may be approved only if the training is for a position other than the AAIW's adversely affected position.

(d) *Disqualification and restrictions.* (1) The State must periodically verify that the threat of total or partial separation continues to exist for the AAIW for the duration of the approved training. This may be accomplished by verifying with the AAIW's employer that the threat of separation still exists before funding each subsequent portion of the training.

(2) Funding of a training program must cease upon the removal of the threat. The AAIW must cease the training upon the conclusion of the most recently funded portion, semester or quarter for which expenses have already been accrued. No additional funding will be available while the threat of separation is removed. Funding may resume for the original training program that had been previously approved upon a determination by the State that the threat of separation has been reestablished, or upon total or partial separation from adversely affected employment, if the requirements under § 618.610 are still met. The AAIW's approved training program must be amended, as appropriate, in compliance with § 618.665.

(3) The one training program per certification rule, as described under § 618.615, is applicable to AAIWs. Thus, a training program begun prior to separation and while under a threat of layoff constitutes the one allowed training program available to that AAIW.

(4) The duration of training limitations, at § 618.615(d)(3) are applicable to AAIWs.

(5) An AAIW will not be eligible for a new training program when total or partial separation occurs; however, the existing training may be amended under the provisions of § 618.665.

(6) The State must not consider the AAIW's threatened employment to be suitable employment under § 618.610(a).

(e) *Separation from threatened employment.* (1) Upon a total or partial separation from threatened employment, an AAIW becomes an AAW under the following conditions:

(i) The separation must occur prior to the expiration of the certification period under which the worker was determined to be threatened; and

(ii) The total or partial separation must be for lack of work.

(2) When an AAIW becomes an AAW under the conditions in paragraph (e)(1) of this section:

(i) The State must amend the worker's approved training program, as described in § 618.665; and

(ii) The State must determine what other benefits under the TAA Program the worker may now be eligible for, including TRA. Any time spent in training as an AAIW applies to the duration limits contained in § 618.615.

§ 618.660 Training benchmarks.

(a) *Requirement for training benchmarks.* A State must establish and document training benchmarks, as provided in paragraph (f) of this section, for individual AAWs so that they can meet Completion TRA eligibility requirements, described at § 618.765. The benchmarks must be established when the worker enrolls in an approved training program, so that the State can monitor the worker's progress toward completing the approved training duration limits established at § 618.615.

(b) *Scope of requirement.* Training benchmarks must be established for all but short-term training programs.

(c) *Measurement against training benchmark.* To review the AAW's progress against the benchmarks, States may request that the training provider provide documentation of the worker's satisfactory progress, including instructor attestations, progress reports, etc. The case manager may attest to the worker's progress after consultation with the training provider and the worker.

(d) *Must be included in IEP.* The training benchmarks must be described in the AAW's IEP, if available, or otherwise documented in the worker's case file.

(e) *Benchmark qualities.* Benchmarks must be flexible enough to allow for some variability, and both practical and measurable enough to allow administration across a broad spectrum of training scenarios.

(f) *Review of benchmarks.* The State must evaluate and document satisfactory progress against the benchmarks in paragraphs (f)(1) and (2) of this section at intervals of not more than 60 days, beginning with the start of the approved training program:

(1) The AAW is maintaining satisfactory academic standing (*e.g.,* not on probation or determined to be ''at risk'' by the instructor or training provider); and

(2) The AAW is on schedule to complete training within the timeframe identified in the approved training program.

(g) *Actions following failure to meet a benchmark.* (1) Upon failure to meet a benchmark, the State must provide a warning to the AAW that his or her eligibility for Completion TRA is in jeopardy. The warning may be provided verbally, in writing, or both, and must be documented in the worker's case file. In consultation with the worker, the State may amend a worker's training program as described in § 618.665.

(2) If a worker who has previously failed to meet a benchmark under paragraph (g)(1) of this section fails to meet a benchmark during a subsequent review under paragraph (f) of this section, the State must notify the worker of his or her ineligibility for Completion TRA. The worker may elect to continue in the approved training but will not receive any Completion TRA payments; or the training program must be amended, according to § 618.665, and Completion TRA may resume.

§ 618.665 Amending approved training.

(a) *Conditions for amending approved training.* The State must, with the cooperation of the trade-affected worker, amend a worker's approved training program under the following conditions:

(1) The State determines that one or more of these conditions are present:

(i) A course or courses designed to satisfy unforeseen needs of the worker, such as remedial education or new employer skills requirements, are necessary;

(ii) A course or courses added to the training program will enhance and complement the worker's original training program, such as preparatory courses to obtain an industry-recognized credential, certification, or license that will improve the worker's chance of being hired;

(iii) Additional assistance such as tutoring or the use of translators would benefit the worker, keep the worker qualified for the training in which he or she is enrolled, and be sufficient for the worker to complete the training program;

(iv) Approval of a longerterm training program that will improve the likelihood of employment upon the completion of such training;

(v) The originally approved training program cannot be successfully completed by the worker;

(vi) The originally approved training program is determined to be of inferior quality;

(vii) Training in another occupation will lead to a greater likelihood of training completion or a better employment outcome, as a result of a change in labor market conditions or the worker's experience in the originally approved training program, or other similar factor;

(viii) The worker is moving from full-time training to part-time training or from part-time training to full-time training;

(ix) An AAIW has been separated from adversely affected employment and has transitioned to become an AAW, or an AAIW is continuing training after a threat of separation was first removed, then resumed; or

(x) An additional source of funding becomes available for which a prearrangement is required under § 618.625(c)(4).

(2) The combination of time spent in the originally approved training program and the time it will take to complete the amended training program will not exceed the duration of training limit for the type of training included in the training program, as provided at § 618.615(d)(3).

(3) Amending the approved training program occurs before a worker finishes the originally approved training program and prior to the originally scheduled date of completion.

(b) *Criteria for amending a training program.* The State must determine that the following criteria are met before amending a training program:

(1) *Criterion 1: A reasonable expectation of employment following completion of such training continues to exist.* Given the labor market conditions expected to exist at the time of the completion of the training program, a reasonable expectation, fairly and objectively considered, exists that the trade-affected worker is likely to find employment, using the skills and education acquired while in training, upon completion of approved training. The labor market conditions considered must be limited to those in the worker's commuting area, or in the area where the worker intends to relocate.

(i) ''A reasonable expectation of employment'' does not require that employment opportunities for the worker be available, or offered, immediately upon the completion of the approved training.

(ii) The State must review the expected job market conditions using pertinent labor market data in the worker's case file to ensure it continues to apply to the amended training program and the worker's occupational goal as identified on the worker's IEP, if available, and in the worker's case file.

(iii) When a worker desires to relocate within the United States but outside the worker's present commuting area upon completion of training, the State must ensure the labor market information (described in § 618.610(c)(2)) supports the determination that a reasonable expectation of employment continues to exist within the area of the planned relocation. The labor market information must be in the area of planned relocation.

(iv) A reasonable expectation of employment may exist in a limited demand occupation for a single, trained worker in the worker's commuting area or in the area to which the worker desires to relocate. The State must determine that there continues to be a reasonable expectation that the worker can secure employment in the limited demand occupation.

(v) A State may approve an amended training program in an occupation if it finds that there is a reasonable expectation that the additional training will lead to self-employment in the occupation for which the worker requests training, and that such self-employment will provide the worker with wages or earnings at or near the worker's wages in adversely affected employment.

(vi) Amended training programs that consist of solely OJT or contain an OJT component are not approvable if they are not expected to lead to suitable employment, with the employer providing the OJT, in compliance with section 236(c)(1)(B)(i) of the Act.

(2) *Criterion 2: Training continues to be reasonably available to the worker.* In determining whether training continues to be reasonably available to the worker, the State must first consider training opportunities available in the worker's commuting area. States may approve training outside the commuting area if none is available at the time in the worker's commuting area. Whether the training is in or outside the commuting area, the amended training program must be available at a reasonable cost as prescribed in paragraph (b)(4) of this section.

(3) *Criterion 3: The worker continues to be qualified to undertake and complete such amended training.* States must ensure the following:

(i) The worker's knowledge, skills, and abilities, educational background, work experience, and financial resources remain sufficient to undertake and complete the specific amendment to the training program being considered.

(ii) The initial assessment or comprehensive and specialized assessment, and IEP, if available, developed under subpart C of this part are to be consulted in order to support the trade-affected worker's ability to undertake and complete the proposed amended training program.

(iii) Where the worker's remaining available weeks of UI and TRA payments will not equal or exceed the duration of the amended training program, that the worker will have sufficient financial resources to support completion of the training program within the time limits noted in § 618.615(d) (limitations on training approval). In making this determination, the State must consider:

(A) The worker's remaining weeks of UI and TRA payments in relation to the duration of the proposed amended training program;

(B) Other sources of income support available to the worker including severance, earnings of other family members, and other family resources;

(C) Other fixed financial obligations and expenses of the worker and family;

(D) The availability of Federal student financial assistance or any State-funded student financial assistance or any private funding designated for student financial assistance, including, but not limited to, nongovernmental scholarships, awards, or grants; and

(E) Whether or not the worker is employed while attending training.

(iv) The State must document whether or not the trade-affected worker has sufficient financial resources to complete the amended training program that exceeds the duration of UI and TRA payments.

(v) If a worker has insufficient financial resources to complete the proposed amended training program that exceeds the duration of UI and TRA payments, then the State must not approve that amended training and must instead consider resuming the originally approved training program or other training opportunities available to the worker.

(4) *Criterion 4: Such amended training continues to be suitable for the worker and available at a reasonable cost*—(i) *Suitable for the worker.* The amended training being considered must address the criteria set out in paragraph (b)(3) of this section (Criterion 3), this paragraph (b)(4), and be determined by the State to be appropriate given the worker's knowledge, skills, and abilities, background, and experience relative to

the worker's employment goal, and criteria set out in paragraph (b)(1) of this section (Criterion 1).

(ii) *Available at a reasonable cost.* (A) Costs of an amended training program may include, but are not limited to, tuition and related expenses (*e.g.,* books, tools, computers and other electronic devices, internet access, uniforms and other training-related clothing such as goggles and work boots, laboratory fees, and other academic fees required as part of the amended training program) as well as supplemental assistance (subsistence expenses and transportation expenses as described in § 618.640(c) and (d)). States must pay the costs of initial licensing and certification tests and fees where a license or certification is required for employment.

(*1*) The State must ensure and document that the amended training program costs are reasonable by researching costs for similar training programs, whether it is classroom or work-based training.

(*2*) Related expenses must be necessary for the worker to complete the amended training program. Other options should be explored before purchasing equipment or related materials.

(B) Available at a reasonable cost means that amended training must not be approved at one provider when, all costs being considered, training better or substantially similar in quality, content and results can be obtained from another provider at a lower total cost within a similar time frame. Amended training must not be approved when the costs of the training are unreasonably high in comparison with the average costs of training other workers in similar occupations at other providers. The State may approve a higher cost training if that training is reasonably expected to result in a higher likelihood of employment, employment retention, or greater earnings, or to return the worker to employment in a significantly shorter duration.

(C) Training at facilities outside the worker's commuting area requiring transportation or subsistence payments that add substantially to the total cost of the amended training program may not be approved if other appropriate training is available in the commuting area at a lower cost, unless the exception described in paragraph (b)(4)(ii)(B) of this section applies.

(D) Approval of amended training under paragraph (b)(4) of this section (Criterion 4) is also subject to the provisions of § 618.650.

Subpart G—Trade Readjustment Allowances

§ 618.700 Scope.

This subpart explains the requirements for eligibility, amounts, and duration of Basic TRA, Additional TRA, and Completion TRA, all of which are income support in the form of cash payments for an AAW.

§ 618.705 Definitions.

(a) For purposes of TRA, an AAW is ''participating in approved training'' if:

(1) The worker is either attending and taking part in all scheduled classes, required activities, and required events in a given week, or the training provider has excused the worker's absence or failure to take part in accordance with its written policies.

(2) In the case of distance learning, the worker is either meeting all the requirements of the training provider in a given week in accordance with its rules, regulations, and standards, or the training provider has excused the worker's failure to meet those requirements in accordance with its written policies.

(b) For purposes of TRA, the term ''training allowance'' means any assistance or payment, excluding Federal student financial assistance, that can be used for the same purpose as funds for the costs of training covered by the TAA Program, and that is given or paid directly to the AAW.

(c) For purposes of TRA, the term ''adversely affected employment'' includes employment at a successor-in-interest, and such wages reported to the State or received by an AAW from a successor-in-interest are included as wages under § 618.720(c).

§ 618.710 Categories of Trade Readjustment Allowances.

(a) *Basic TRA.* Basic TRA is payable to an AAW who meets the requirements of § 618.720. Basic TRA is payable for weeks of unemployment after the worker meets the criteria for exhaustion of UI under § 618.720(e) and, consistent with § 618.725, for weeks of unemployment during which the worker either is enrolled in, is participating in, or has completed approved training, or has received a waiver of the training requirement under § 618.735.

(b) *Additional TRA.* Additional TRA is payable to an AAW who meets the requirements of § 618.760. Additional TRA is payable only for weeks of unemployment during which the worker is participating in approved training.

(c) *Completion TRA.* Completion TRA is payable to an AAW who meets the requirements of § 618.765. Completion TRA is payable only for weeks of unemployment during which the worker is participating in approved training. Completion TRA is payable only after the worker has exhausted all rights to Basic and Additional TRA.

§ 618.715 Applications for Trade Readjustment Allowances and payment.

(a) *Timing of applications.* (1) An initial application for TRA must be filed after certification of the appropriate worker group has been made.

(2) An application for TRA must be filed within the time limit applicable to claims for regular compensation under the applicable State law.

(b) *Applicable procedures.* Applications must be filed in accordance with this subpart and on forms furnished to AAWs by the State. The State's procedures for filing applications for TRA, and for reporting, must be consistent with this part and the Department's ''Standard for Claim Filing, Claimant Reporting, Job Finding, and Employment Services,'' Employment Security Manual, part V, sections 5000 through 5004 (appendix A to this part), except that such procedures may allow for the filing and processing of applications by paper, telephone, the internet, or other similar methods as provided for in paragraph (e)(2) of this section.

(c) *Treatment of determinations.* Determinations on TRA applications are determinations to which §§ 618.820 (determinations of eligibility; notices to individuals), 618.824 (liable State and agent State responsibilities), and 618.828 (appeals and hearings) apply. Copies of such applications for TRA and all determinations by the State on such applications must be included in the AAW's case file.

(d) *Payment of TRA.* (1) A State must not make any payment of TRA until a certification is issued and the State determines that the AAW is a member of a worker group covered under the specified certification.

(2) An AAW, if he or she otherwise meets the eligibility requirements of this subpart, including exhaustion of UI, may be entitled to TRA for any week of unemployment that begins on or after the date of the applicable certification.

(3) An AAW may receive only one form of TRA (Basic, Additional, or Completion) for any given week.

(e) *Taking of applications.* (1) An initial application is required for TRA and a separate application is required for Completion TRA.

(2) Applications may be filed and processed by any means allowed for UI claims in the State.

(3) States must provide notice to the worker when a worker begins receipt of Additional TRA. That notice must include the eligibility requirements under which Additional TRA is payable.

§ 618.720 Qualifying requirements for Basic Trade Readjustment Allowances.

To qualify for Basic TRA for a week of unemployment, an AAW must meet each of the requirements in paragraphs (a) through (g) of this section:

(a) *Certification.* The AAW must be a member of a worker group certified under subpart B of this part.

(b) *Separation.* The AAW must have experienced a qualifying separation during the certification period of the certification in paragraph (a) of this section.

(c) *Wages and employment.* The AAW must meet the following wage and other requirements:

(1) In the 52-week period (*i.e.,* 52 consecutive calendar weeks) ending with the week of the AAW's total or partial separation from adversely affected employment during the certification period, the worker must have had at least 26 weeks of employment at wages of $30 or more a week in adversely affected employment with a single firm or, where there is more than one subdivision, the appropriate subdivision of that firm. Evidence that the worker meets the requirement in this paragraph (c)(1) must be obtained as provided in § 618.740. Employment and wages covered under more than one certification may not be combined to qualify for TRA.

(2) The categories of weeks in paragraphs (c)(2)(i) through (iv) of this section also must be treated as weeks of employment at wages of $30 or more (for purposes of paragraph (c)(1) of this section), regardless of whether the AAW actually receives any wages during such weeks:

(i) All weeks, up to a maximum of 7 weeks, during which the AAW is on employer-authorized leave for vacation, sickness, injury, maternity, or inactive duty or active duty military service for training;

(ii) All weeks, up to a maximum of 7 weeks, during which the AAW had adversely affected employment interrupted to serve as a full-time representative of a labor organization in the firm or subdivision referenced in paragraph (c)(1) of this section;

(iii) All weeks, up to a maximum of 26 weeks, during which the AAW has a disability compensable under a workers' compensation law or plan of a State or the United States; and

(iv) All weeks, up to a maximum of 26 weeks, during which the AAW is on call-up for the purpose of active duty in a reserve status in the Armed Forces of the United States, if such active duty is ''Federal service'' as defined in 5 U.S.C. 8521(a)(1), but not more than 7 weeks, in the case of weeks described in paragraph (c)(2)(i) or (ii) of this section that occur during the active duty. States may waive provisions of this paragraph (c)(2)(iv) consistent with § 618.884.

(d) *Entitlement to UI.* The AAW must have been entitled to (or would have been entitled to if the worker had applied therefor) UI for a week within the first benefit period.

(e) *Exhaustion of UI.* The AAW must meet the following requirements:

(1) The AAW must have exhausted all rights to any UI, except additional compensation that is funded by a State and not reimbursed from any Federal funds to which such worker was entitled (or would have been entitled had such worker applied therefor), and not have any unexpired waiting period applicable to the worker for any such UI, except as provided at § 618.720(e)(2).

(2) The AAW may elect to receive TRA instead of UI during any week with respect to which the worker:

(i) Is entitled and is able to receive UI as a result of a new benefit year based on employment in which the worker engaged after establishing TRA eligibility following a total separation from adversely affected employment. The entitlement must be after the first UI benefit period. It must also be based in whole or in part upon part-time or short-term employment in which the worker engaged after the worker's most recent total separation from adversely affected employment that established such first UI benefit period. This new employment may include the same adversely affected employment; and

(ii) Is otherwise entitled to TRA, except that the AAW need not have exhausted all rights to UI in the new benefit year.

(3) For AAWs meeting the requirements in paragraph (e)(2) of this section, the State must provide the AAW a summary of his or her potential UI benefits and potential TRA benefits in writing and document the AAW's choice in the case file.

(4) State law governs the status of the UI claim in the second benefit year when the AAW elects to receive TRA instead of UI.

(5) If the AAW elects to receive UI benefits in the second benefit year or any subsequent benefit period thereafter in which the option is available, the AAW must exhaust all UI entitlement before resuming TRA eligibility.

(6) The AAW must have no unexpired waiting period applicable to such worker for any UI.

(f) *Extended Benefits (EB) work test.* The AAW must be able to work and be available for work, as defined in the EB work test in the applicable State law for UI claimants, and must be furnished a classification and a determination as to his or her job prospects as required by 20 CFR 615.8(d). The EB work test must be met for each week by the means described in this paragraph (f), unless an exception in paragraph (f)(2) of this section applies.

(1) *Criteria.* The EB work test requirement must be met by:

(i) Registering for work with the State, in accordance with the applicable provisions of State law that apply to EB claimants and that are consistent with part 615 of this chapter;

(ii) Actively engaging in seeking work;

(iii) Furnishing the State with tangible evidence of work search efforts each week; and

(iv) Accepting any offer of suitable work, including those referred by the State.

(2) *Exceptions.* The able and available requirement and the EB work test requirement in this paragraph (f) do not apply for purposes of TRA eligibility:

(i) When the AAW is enrolled in or participating in approved training;

(ii) During a break in training; or

(iii) With respect to claims for TRA for those weeks of unemployment beginning before the filing of an initial claim for TRA, or for any week that begins before the AAW is notified of coverage by a certification and is fully informed of the EB work test requirements. Before such notification and advice, the worker must not be subject to the EB work test requirements for TRA eligibility purposes, nor to any State timely filing requirement, but must be required to be unemployed and able to work and available for work under State law with respect to any such week except as provided in paragraphs (f)(2)(i) and (ii) of this section for AAWs enrolled in or participating in approved training.

(3) *Suitable work.* (i) For purposes of this subpart, suitable work means, with respect to a worker, whichever of the following laws is applicable:

(A) Suitable work as defined in the applicable State law for claimants for regular compensation; or

(B) Suitable work as defined in applicable State law provisions consistent with section 202(a)(3) of EUCA.

(ii) Regardless of which of the laws in paragraph (f)(3)(i)(A) or (B) of this section apply, suitable work does not in any case include self-employment or employment as an independent contractor.

(g) *Participation in approved training.* (1) As a condition for receiving Basic TRA, except as provided for in § 618.730, the AAW, after a total or partial separation from the adversely affected employment within the certification period, and by the applicable deadlines in § 618.725 must:

(i) Be enrolled in training, as defined in subpart A of this part;

(ii) Be participating in approved training (as defined in § 618.705); or

(iii) Have a waiver granted under § 618.735 in effect.

(2) An AAW who has not met the requirements in paragraph (g)(1) of this section may, if otherwise eligible, receive Basic TRA before expiration of the applicable training enrollment deadline in § 618.725. Once the training enrollment deadline is reached, the training requirements in paragraph (g)(1) of this section must be met. Basic TRA payments must cease beginning the first week for which the requirements in paragraph (g)(1) of this section were required but not met.

(3) The requirements in paragraph (g)(1) of this section do not apply to an AAW with respect to claims for Basic TRA for weeks of unemployment beginning before the filing of an initial claim for TRA after publication of the certification of the appropriate worker group as provided in § 618.715(a), nor for any week that begins before the AAW is notified that he or she is covered by a certification and is fully informed of the requirements of this section.

(4) An AAW who meets the participation in approved training requirement in paragraph (g)(1) of this section by the applicable deadlines in § 618.725 may continue to receive Basic TRA after the AAW has completed training, even if such participation in training was on a part-time basis, provided that the worker meets all other eligibility requirements for Basic TRA.

§ 618.725 Training enrollment deadlines.

(a) *Training enrollment deadlines.* As a condition for receiving Basic TRA, an AAW must meet the participation in approved training requirement in § 618.720(g)(1) no later than the latest of:

(1) The last day of the 26th week after the AAW's most recent qualifying separation;

(2) The last day of the 26th week after the week in which the certification was issued; or

(3) 45 days after the later of the dates specified in paragraph (a)(1) or (2) of this section, if there are extenuating circumstances that justify an extension of the enrollment period. Extenuating circumstances that justify the 45-day extension are circumstances that would constitute good cause, as established by § 618.730; that is, circumstances under which the AAW acted diligently yet was unable to enroll because of exigent circumstances.

(4) In the case of an AAW who fails to enroll by the date required by paragraph (a)(1), (2), or (3) of this section due to a failure by the State to provide the AAW with timely information regarding the applicable training enrollment deadline, the AAW must be enrolled in training or obtain a waiver by the Monday of the first week occurring 60 consecutive calendar days following the date the worker was properly notified; or

(5) The Monday of the first week occurring 30 consecutive calendar days (or, if the State is closed that last day because that day falls on a weekend or holiday or for any other reason, the next business day) following the day of termination, whether by revocation or expiration or revocation of a waiver under § 618.735.

(b) *Exceptions*—(1) *Extended training enrollment deadline for delayed approval of application for TRA.* (i) The training enrollment deadlines of paragraph (a) of this section do not apply where:

(A) A State's negative determination on an initial application for TRA under § 618.715 has been reversed through redetermination or appeal;

(B) The AAW is unable to meet the training enrollment deadline because of the delay in obtaining the reversal of the negative determination; and

(C) The delay in obtaining the reversal is not attributable to the AAW.

(ii) Where the conditions of paragraph (b)(1)(i) of this section are met, the AAW will have until the last day of the 26th week following the date on which the negative determination was reversed to enroll in training or have a training waiver in effect.

(2) *Extended training enrollment deadline for period of duty in military service.* If an AAW who is a member of a reserve component of the Armed Forces and has served a period of duty during the AAW's Basic TRA eligibility period but before enrolling in training, the AAW's training enrollment deadline will be the last day of the 26th week following the last day of the AAW's period of duty.

(3) *Good cause.* The training enrollment deadline may be extended for good cause as provided for in § 618.730.

§ 618.730 Good cause.

(a) States must waive the time limitations with respect to an application for TRA, enrollment in training, or receipt of a training waiver in this subpart if the AAW shows good cause.

(b) Good cause exists if the AAW acted diligently yet was unable to complete in a timely manner the relevant task at issue described in paragraph (a) of this section because of exigent circumstances.

(c) The State must determine good cause on a worker-by-worker basis.

§ 618.735 Waiver of training requirement for Basic Trade Readjustment Allowances.

(a) *Waiver for Basic TRA.* A State may issue a waiver of the requirement in § 618.720(g) that an AAW be enrolled in or participating in approved training as a condition of Basic TRA eligibility upon a finding that training for such worker is not feasible or appropriate for one or more reasons identified in paragraph (b) of this section. The waiver must contain the information required in paragraph (c) of this section. No waiver of the training requirement is permitted for Additional TRA or Completion TRA eligibility. Waivers must be issued no later than the latest of the applicable deadlines described in § 618.725.

(b) *Bases for a waiver.* The State, in order to issue a written waiver to an AAW, must conclude after assessing the worker that training is not feasible or appropriate for one or more of the reasons in paragraphs (b)(1) through (3) of this section, which must be cited on the waiver:

(1) *Health.* The worker is unable to participate in training due to the health of the worker. A waiver granted for this reason does not exempt the worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.

(2) *Enrollment unavailable.* The first available enrollment date for approved training is within 60 consecutive calendar days after the date on which a waiver determination is made or, if later, there are extenuating circumstances, as determined under the criteria in § 618.725(a)(3), that apply to the delay in enrollment in training.

(3) *Training not available.* Approved training is not reasonably available to

the worker from governmental agencies or private sources (which may include area vocational education schools, as defined in section 3 of the Strengthening Career and Technical Education for the 21st Century Act (20 U.S.C. 2302), and employers), or suitable training is not available at a reasonable cost, or no training funds are available.

(c) *Contents of a waiver.* (1) A waiver issued under this section may not take effect unless it contains, at a minimum, the following information:

(i) The AAW's name and a unique identifying designation used by the State;

(ii) The name and location of the worker group and the petition number under which the AAW's group was certified;

(iii) A statement of the reasons why training is not feasible or appropriate for the AAW, citing to one or more reasons identified in paragraph (b) of this section;

(iv) The effective date and expiration date of the waiver;

(v) A statement that the waiver must be revoked immediately upon a determination that the basis or bases for the waiver no longer apply; and

(vi) The signature of an official of the State authorized to grant the waiver, and the signature of the AAW or other evidence of the worker's acknowledgement of receipt of the waiver.

(2) Waivers and the required signatures may be issued and maintained electronically.

(d) *Request for a waiver.* States may analyze whether an AAW may qualify for a waiver as part of the AAW's initial assessment, as described in subpart C of this part. An AAW may also request a waiver from the State before the applicable deadline in § 618.725.

(e) *Denial of a waiver.* In any case in which a determination is made to deny a waiver under this section, the AAW to whom the denial pertains must be furnished with a notice of the denial of waiver. The notice of denial of waiver must contain, at minimum, the information in paragraphs (c)(1)(i), (ii), and (vi) of this section; the specific reason(s) for the denial; the date of the denial; and notice of the AAW's appeal rights.

(f) *Duration of a waiver.* (1) A waiver issued under this section may be for a period not to exceed 6 months, or the AAW's period of Basic TRA entitlement, whichever ends first;

(2) Notwithstanding the 6-month limitation in paragraph (f)(1) of this section, a State may extend an AAW's waiver beyond 6 months if:

(i) Training continues not to be feasible or appropriate for such worker for one or more of the reasons described in paragraph (b) of this section; and

(ii) Such worker has not yet exhausted his or her Basic TRA entitlement.

(3) Waivers must be reviewed 3 months after the date on which the State issues the waiver to determine if one or more of the bases in paragraph (b) of this section continue to apply, and every 30 consecutive calendar days thereafter.

(g) *Revocation of a waiver.* The State must revoke a waiver issued under this section if the waiver criteria are no longer met. The State must notify the AAW of the revocation. The notice of revocation must be appealable and must contain the same information as a denial of waiver issued under paragraph (e) of this section.

(h) *Submission of waivers and notices.* The State must develop procedures for compiling and reporting on the number of waivers issued and revoked, by reason, and must submit to the Department, only upon specific request, a record or copy of any or all waivers issued under this section together with a statement of reasons for each such waiver, and a record or copy of any or all notices of revocation of waiver issued under this section together with a statement of reasons for each such revocation. The statements of reason required under paragraphs (c)(1)(iii) and (e) of this section, as applicable, fulfill the requirement for a statement of reasons under this paragraph (h). Electronic records and copies are acceptable.

§ 618.740 Evidence of qualification for Basic, Additional, and Completion Trade Readjustment Allowances.

(a) *State action.* When an AAW applies for Basic, Additional, or Completion TRA, the State having jurisdiction under § 618.820 (determinations of eligibility; notices to individuals) must obtain information necessary to establish:

(1) Whether the AAW meets the qualifying requirements in § 618.720 for Basic TRA, in § 618.760 for Additional TRA, or in § 618.765 for Completion TRA; and

(2) For a partially separated AAW, the average weekly hours and average weekly wage in adversely affected employment.

(b) *Insufficient data.* If information specified in paragraph (a) of this section is not available from State records or from any employer, the State must require the AAW to submit a signed statement setting forth such information as may be required for the State to make the determinations required by paragraph (a) of this section.

(c) *Verification.* A statement made under paragraph (b) of this section must be certified by the AAW to be true to the best of the worker's knowledge and belief and must be supported by evidence including W–2 forms, paycheck stubs, union records, income tax returns, or statements of fellow workers, and must, whenever possible, be verified by the employer.

(d) *Determinations.* The State must make the necessary determinations on the basis of information obtained under this section, except that if, after reviewing information obtained under paragraphs (b) and (c) of this section against other available data, including agency records, it concludes that such information is not reasonably accurate, it must make the determination on the basis of the best available information.

(e) *Timing.* The State must follow the established method used for processing regular UI claims. If an employer does not respond within the timeframe established for UI claims, then the State must act on the best available information.

§ 618.745 Weekly amounts of Basic, Additional, and Completion Trade Readjustment Allowances.

(a) *TRA amount.* The amount of Basic, Additional, or Completion TRA payable for a week of unemployment (including a week of approved training) is an amount equal to the most recent weekly benefit amount of UI (including dependents' allowances) payable to the AAW for a week of total unemployment preceding the worker's first exhaustion of UI following the worker's first qualifying separation, except that:

(1) Where a State calculates a base period amount of UI and calculates dependents' allowances on a weekly supplemental basis, TRA weekly benefit amounts must be calculated in the same manner and under the same terms and conditions as apply to claimants for UI except that the base amount must not change.

(2) For partially separated workers, the weekly amount of TRA must be calculated as determined under the applicable State law.

(b) *Workers who are undergoing training.* Any AAW in approved training who is thereby entitled for any week to TRA and a training allowance (as defined in § 618.705) under any other Federal law for the training of workers, will be paid for each week in which the AAW is undergoing approved training, TRA in the amount (computed for each week) equal to the amount computed under paragraph (a) of this section or, if

greater, the amount of any weekly allowance for such training to which the AAW would be entitled under any other Federal law for the training of workers, if the AAW applied for such allowance. TRA must be paid in lieu of any payment for training made directly to the AAW to which the AAW is entitled under such other Federal law.

(c) *Reductions to the TRA weekly amount.* The weekly amount of TRA payable under this section will be reduced (but not below zero) by:

(1) Income that is deductible from UI under the disqualifying income provisions of the applicable State law or Federal UI law, except that in the case of an AAW who is participating in approved training, such income must not include earnings from work for such week that are equal to or less than the most recent weekly benefit amount of the UI payable to the worker for a week of total unemployment preceding the worker's first exhaustion of UI (as determined for purposes of section 231(a)(3)(B) of the Act).

(2) If the amount of a training allowance as defined in § 618.705 (including a training allowance referred to in paragraph (b) of this section) under any Federal law that the AAW receives for such week is less than the amount of TRA otherwise payable to the AAW for a week, the AAW must, when applying for TRA for the week, be paid TRA in an amount not to exceed the difference between the AAW's regular weekly TRA amount, as determined under § 618.745(a) (regular allowance), and the amount of the training allowance paid to the AAW for the week.

(3) Except as provided in paragraph (c)(4) of this section, if a training allowance under any Federal law other than the Act, is paid to an AAW for any week of unemployment with respect to which the AAW would be entitled (determined without regard to any disqualification under paragraph (b) of this section) to TRA, if the AAW applied for TRA, each such week must be deducted from the total number of weeks of TRA otherwise payable to the AAW when the worker applies for and is determined to be entitled to TRA. If such training allowance paid directly to the worker for any week of unemployment is less than the amount of TRA to which the AAW would be entitled if the worker had applied for it, the AAW must receive (when the worker applies for and is determined to be entitled to TRA) TRA for such week equal to such difference.

(4) If the training allowance (as defined in § 618.705) referred to in paragraphs (c)(2) and (3) of this section is Federal student financial assistance, then the amount of TRA will not be reduced. In the case of an AAW to whom the Federal student financial assistance is available, the State will rely on prearrangements for the sharing of training costs under § 618.625(c)(2) (payment restrictions for training programs) in order to harmonize the provision of Federal student financial assistance with the worker's TRA.

(5) Any amount that would be deductible from UI for days of absence from training under the provisions of the applicable State law that applies to AAWs in approved training.

§ 618.750 Maximum amount of Basic Trade Readjustment Allowances.

(a) *General rule.* Except as provided in paragraph (b) of this section, the maximum amount of Basic TRA payable to an AAW is the product of 52 multiplied by the TRA weekly amount for a week of total unemployment, calculated under § 618.745(a) (weekly amounts of TRA), reduced by the total sum of UI (except State-funded additional compensation) that the AAW was entitled or would have been entitled to had the worker applied in such worker's first benefit period.

(b) *Exceptions.* The maximum amount of TRA determined under paragraph (a) of this section does not include:

(1) The amount of dependents' allowances paid as a supplement to the base weekly amount determined under § 618.745; or

(2) The amount of the difference between the AAW's weekly increased allowances determined under § 618.745(b) and such worker's weekly amount determined under § 618.745(a).

§ 618.755 Eligibility period for Basic Trade Readjustment Allowances.

(a) Except as provided in paragraph (b) of this section, an AAW is ineligible to receive Basic TRA for any week of unemployment beginning after the close of the 104-week period beginning with the first week following the week in which the AAW's most recent qualifying separation occurred or after certification, whichever is later.

(b) A State may not count any period during which a judicial or administrative appeal is pending with respect to a denial of a petition filed under subpart B of this part for the purpose of calculating the period of separation described in paragraph (a) of this section. The separation will be deemed as having occurred on the certification date and the Basic TRA eligibility period will begin on the week that follows the certification date.

§ 618.760 Qualifying requirements for, and timing and duration of, Additional Trade Readjustment Allowances.

(a) *Qualifying requirements for Additional TRA.* An AAW is eligible to receive Additional TRA for any week only if:

(1) The worker meets all qualifying requirements for receipt of Basic TRA in § 618.720; and

(2) Except as provided in § 618.775 for a break in training, the AAW is participating in approved training.

(b) *Timing and duration of Additional TRA.* Additional TRA is payable for up to 65 weeks during the 78 consecutive calendar week period that:

(1) Immediately follows the last week of entitlement to Basic TRA otherwise payable to the AAW;

(2) Begins with the first week of approved training, if such training begins after the last week described in paragraph (b)(1) of this section; or

(3) Begins with the first week in which such training is approved under subpart F of this part, if such training is approved after the training already has commenced (although Additional TRA or training costs may not be paid for any week before the week in which the TAA approved training was approved).

§ 618.765 Qualifying requirements for, and timing and duration of, Completion Trade Readjustment Allowances.

(a) *Qualifying requirements for Completion TRA.* An AAW is eligible to receive Completion TRA if such worker meets all qualifying requirements for receipt of Basic TRA in § 618.720 and Additional TRA in § 618.760, and if the eligibility criteria in paragraphs (a)(1) through (3) of this section are met for that week. The requirements in this paragraph (a) are applied at the time the State approves payment for a week of Completion TRA. The eligibility criteria are:

(1) Payment of Completion TRA is necessary for an AAW to complete the approved training described in paragraph (a)(2) of this section.

(2) The AAW is participating in approved training each week that leads to the completion of a degree or industry-recognized credential and the worker's training program will extend for a period longer than the periods during which Basic and Additional TRA are payable under §§ 618.755 (eligibility period for Basic TRA) and 618.760 (qualifying requirements for, timing and duration of, Additional TRA), and the requested weeks are necessary for the worker to complete training.

(3) The worker–

(i) Has substantially met the performance benchmarks in § 618.660

(training benchmarks) established as part of the approved training under subpart F of this part;

(ii) Is expected to continue to make progress toward the completion of the approved training; and

(iii) Will complete the approved training during the period of eligibility described in paragraph (c) of this section.

(4) If, during the period in which an AAW is eligible to receive Completion TRA, the worker ceases to meet any of the eligibility criteria in paragraphs (a)(1) through (3) of this section, no further Completion TRA is payable to such worker.

(b) *Weeks payable.* A total of up to 13 weeks of payments are allowable during the period of eligibility described in paragraph (c) of this section.

(c) *Eligibility period.* Completion TRA may be payable during the period of 20-week consecutive calendar period that begins with the first week in which an AAW files a claim for Completion TRA and seeks compensation for such week, regardless of when the first payment is received. The eligibility period may be extended if justifiable cause exists, in accordance with § 618.770(a).

(d) *Start date of Completion TRA.* The State must have a process to take applications for Completion TRA. States must not automatically establish the 20-week period for Completion TRA as the week following either expiration of the eligibility period for Additional TRA, or the exhaustion of Additional TRA; filing a claim after either of those first weeks is permitted. Since training that leads to a degree or industry-recognized credential must be completed during the eligibility period described in paragraph (c) of this section, the first week of Completion TRA claimed should be carefully considered in coordination with case management while the AAW's training program is being developed.

§ 618.770 Special rule for justifiable cause.

(a) The eligibility period during which Basic, Additional, and Completion TRA are payable to an AAW may be extended for justifiable cause, which has the same meaning as good cause in § 618.730.

(b) While the eligibility period for Basic, Additional, and Completion TRA may be extended for justifiable cause as determined by the State, the maximum benefit amount and number of weeks this benefit may be received must not change.

§ 618.775 Payment of Trade Readjustment Allowances during breaks in training.

(a) Basic and Additional TRA are payable to an otherwise eligible AAW during breaks in training (periods within or between courses, terms (quarters or semesters), and academic years) that do not exceed 30 days (counted in accordance with paragraph (b) of this section), only if:

(1) The AAW participated in approved training of this part immediately before the beginning of the break in training;

(2) The break in training was provided in the established schedule of the training provider; and

(3) The AAW resumes participation in the approved training immediately after the break ends.

(b) For the purpose of determining whether a break in training is within the 30-day maximum allowed under this section, all calendar days beginning with the first day of the training break and ending with the last day of the break, as provided in the published schedule of the training provider, must be counted. However, any Saturday, Sunday, or official State or national holiday occurring during the scheduled break in training is excluded from the 30-day count if training normally would not be scheduled in the training program during those days if there was no break.

(c) For Completion TRA, breaks in training are permissible during the 20-week eligibility period. However, payments during breaks in training are not allowed.

§ 618.780 Disqualifications.

(a) *General rule.* Except as stated in paragraph (b)(1) or (c) of this section and in § 618.832(b)(2) (overpayments; penalties for fraud), an AAW may not be paid TRA for any week of unemployment such worker is or would be disqualified from receiving UI under the disqualification provisions of the applicable State law, including the provisions of the applicable State law that apply to EB claimants and are consistent with EUCA.

(b) *Disqualification of trainees*—(1) *State law inapplicable.* A State law may not be applied to disqualify an AAW from receiving UI or TRA because:

(i) Such worker is enrolled in or participating in an approved training program;

(ii) Such worker refuses work to which the State referred such worker because such work either would require discontinuation of approved training or interfere with successful participation in TAA approved training, except that this paragraph (b)(1)(ii) does not apply to an AAW who is ineligible under paragraph (b)(2) of this section;

(iii) Such worker quits work that was not suitable employment and it was reasonable and necessary to quit in order to begin or continue approved training. This includes temporary employment the worker may have engaged in during a break in training;

(iv) Such worker continues full-time or part-time employment while participating in approved training; or

(v) Such worker leaves OJT within the first 30 days because the OJT is not meeting requirements of section 236(c)(1)(B) of the Act.

(2) *Disqualifications.* An AAW who, without justifiable cause (as described in paragraph (b)(3)(iii) of this section), fails to begin participation (as described in paragraph (b)(3)(i) of this section) in approved training, or ceases participation (as described in paragraph (b)(3)(ii) of this section) in such training, or for whom a waiver is revoked under § 618.735(f) (waiver of training requirement for Basic TRA), may not receive Basic TRA for any week in which such failure, cessation, or revocation occurred. The disqualification will continue for any succeeding week thereafter until the week in which such worker begins or resumes participation in an approved training program. A worker who has justifiable cause (as described in paragraph (b)(3)(iii) of this section) for such failure to begin, or for ceasing, participation in training may receive Basic TRA for any week in which such failure or cessation occurred if the worker otherwise meets the requirements of this subpart. Such failure, cessation, or revocation normally does not change the eligibility periods defined in §§ 618.755, 618.760(b), and 618.765(b) and (c).

(3) *Disqualification conditions.* For determining the disqualification of trainees for all TAA approved training, the following provisions apply:

(i) *Failed to begin participation.* A worker will be determined to have failed to begin participation in an approved training program when the worker fails to attend one or more scheduled training classes and other training activities in the first week of the approved training program, without justifiable cause.

(ii) *Ceased participation.* A worker will be determined to have ceased participation in an approved training program when the worker fails to attend all scheduled training classes and other training activities scheduled by the training provider in any week of the approved training program, without justifiable cause.

(iii) *Justifiable cause.* For purposes of this section, justifiable cause has the same meaning as good cause under § 618.730, except that good cause for

absence also includes an absence excused under a training provider's written policy.

(c) *Disqualification while in OJT.* An AAW may not be paid any TRA for any week during which such worker is engaged in OJT, in accordance with § 618.635.

(d) *Disqualification while in part-time training.* An AAW may not be paid any TRA for any week in which the worker is participating in approved training that is part-time. Part-time training is any approved training that does not meet the definition of ''full-time training'' as defined in § 618.110.

Subpart H—Administration by Applicable State Agencies

Sec.

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Subpart H—Administration by Applicable State Agencies

§ 618.800 Scope.

This subpart covers the general administrative requirements a State must follow in providing the benefits and services available under the TAA Program. The requirements in this subpart include: The provision of rapid response and appropriate career services to groups of workers for whom a petition is filed, delivering TAA Program benefits and services to trade-affected workers, assisting in the filing of petitions for those likely to be eligible for benefits under this part, conducting outreach to groups of workers covered under a petition for TAA filed under subpart B of this part, and notifying UI claimants of the TAA Program.

§ 618.804 Agreements with the Secretary of Labor.

(a) *Authority.* A State or CSA must, before performing any function or exercising any jurisdiction under the Act and this part, execute an Agreement meeting the requirements of the Act with the Secretary.

(b) *Execution.* (1) An Agreement under paragraph (a) of this section must be signed and dated on behalf of the State or the CSA by an authorized official whose authority is certified by the State Attorney General or counsel for the CSA, unless the Agreement is signed by the Governor or the chief elected official of the State. In the event that a State does not execute an Agreement under paragraph (a) of this section, then section 3302(c)(3) of the Internal Revenue Code of 1986, as amended (26 U.S.C. 3302(c)(3)) (loss of unemployment tax credits under section 3302(a) and (b)), applies.

(2) A State or CSA must execute an amended Agreement with the Secretary, upon the request of the Secretary, in response to legislative or regulatory changes to the TAA Program.

(3) The Secretary will execute an Agreement on behalf of the United States.

(c) *Public access to Agreements.* The CSA must make available for inspection and copying, an accurate copy of its Agreement under this section to any individual or organization that requests it. The CSA may furnish copies of the Agreement upon payment of the same charges, if any, as apply to the furnishing of copies of other records of the CSA.

(d) *Agent of the United States.* A State that has executed an Agreement under this section is an agent of the United States for purposes of receiving applications for and providing payments on the basis provided in this part and must carry out fully the purposes of the Act and this part.

(e) *Breach.* If the Secretary determines that the State or CSA has not fulfilled its commitments under its Agreement stated in this section, the Secretary may terminate the Agreement. The Secretary must provide the State or CSA reasonable notice and an opportunity for a hearing before the Secretary makes a finding that the State has not fulfilled its commitments under its Agreement. In the event that the Secretary determines the State or CSA has not fulfilled its commitments under its Agreement, section 3302(c)(3) of the Internal Revenue Code of 1986, as amended (regarding loss of unemployment tax credits under section 3302(a) and (b)), applies.

(f) *Review of State and CSA compliance.* The Department is responsible for monitoring and reviewing State and CSA compliance with the Agreement entered into under the Act and this section.

(g) *Merit staffing.* States must comply with the staffing flexibility provisions contained in § 618.890.

(h) *Contents.* Each Agreement under this section must contain provisions including, but not limited to, the following:

(1) Provisions consistent with the requirements of section 239 of the Act (19 U.S.C. 2311);

(2) Authorization for the State to issue waivers under § 618.735 (waiver of training requirement for Basic TRA) and the requirement that the State submit, upon request, to the Department a copy of each such waiver and, if not already contained within each waiver, a statement of the reasons for such waiver;

(3) The requirement that the State supply data to the Department on national TAA Program performance goals identified in applicable regulations, the Department's written directives, or any other written means used to communicate such goals; and

(4) Provisions establishing TAA Program funds as the primary source of Federal assistance to trade-affected workers. This means that following certification of a petition under subpart B of this part, the costs for providing services to a worker group should shift from WIOA and other programs to the TAA Program.

(i) *Administration absent State Agreement.* (1) In any State in which no Agreement under this section is in effect, the Secretary will administer the Act and this part through appropriate arrangements made by the Department.

(2) The Secretary will administer TAA in accordance with this part and the provisions of the applicable State law, except to the extent that such State law is inconsistent with this part, section 303 of SSA (42 U.S.C. 503), or section 3304(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. 3304(a)).

(3) The Secretary will provide for a fair hearing for any individual whose application for TAA is denied. A final determination as to eligibility for TAA

will be subject to review as provided in 42 U.S.C 405(g), as required by section 240(b) of the Act.

(4)(i) The Department will issue administrative guidance providing additional detail on the operation of the TAA Program within that State.

(ii) Prior to providing administrative guidance, the Department will consult with the Governor, other State agencies, neighboring States, and other organizations to determine how best to ensure access to the TAA Program within that State. Options to administer the program that the Department may consider include, but are not limited to:

(A) Executing an agreement with another State to operate the TAA Program;

(B) Executing an agreement with a qualified organization within the State that adheres to all TAA Program requirements in this part to operate the TAA Program; and

(C) Directly administering the TAA Program.

(j) *Program coordination.* State agencies providing employment and case management services under subpart C of this part and training under subpart F of this part must, in accordance with their Agreements under this section, coordinate such services and payments with programs and services provided by WIOA and with the State agency administering the State law. Any agency of the State jointly administering such provisions under this Agreement must be considered to be a CSA for purposes of this part.

§ 618.808 State rulemaking.

(a) A State may establish laws, regulations, procedures, or policies, not inconsistent with the Act or this part, or administrative guidance issued by the Department.

(b) The State must submit the exact text of such proposed law, regulation, procedure, or policy, certified as accurate by a responsible official, employee, or counsel of the State, to the Department.

(c) No law, regulation, procedure, or policy proposed under paragraph (a) of this section may become effective unless and until approved by the Department. The Department may grant approval on a temporary basis, not to exceed 90 days, in cases of administrative necessity.

(d) The Department may withdraw approval at any time with reasonable notice of no less than 30 days to a State.

(e) If public notice and opportunity for hearing would be required under State law for adoption of a similar law, regulation, procedure, or policy involving UI or other State or Federal law, the State must provide such public notice and opportunity for hearing.

§ 618.812 Subpoenas.

(a) A State may require by subpoena the attendance of witnesses and production of evidence necessary for use in the determination of an individual's eligibility for TAA Program services and benefits or to obtain information needed to assist the Department in the petition determination process.

(b) This power includes the ability of the State to subpoena an employer for information necessary to determine whether a certification covers a worker, including the name, address, and Social Security number of the worker.

(c) The State may enforce compliance with subpoenas as provided under State law and, if a State court declines to enforce a subpoena issued under this section, or the State does not attempt a subpoena under State law, the State must petition for an order requiring compliance with such subpoena to the District Court of the United States with jurisdiction over the proceeding.

§ 618.816 Trade Adjustment Assistance Program benefit information and provision of services to workers.

(a) *Providing information to workers.* State agencies must provide information to each worker who applies for UI about the benefit allowances, training, and other services available under this part, and about the application procedures, and the appropriate filing dates, for such allowances, training, and other services.

(b) *Rapid response and appropriate career services.* States must ensure that rapid response assistance and appropriate career services, as described in section 134 of WIOA, are made available to members of a group of workers for whom a petition under subpart B of this part has been filed.

(c) *Providing reemployment services.* (1) For trade-affected workers covered by a certification, States must:

(i) Make available employment and case management services described in subpart C of this part, including testing, counseling, assessment, and placement services; and

(ii) Provide referrals to, assistance in securing of, and approvals of training under subpart F of this part.

(2) If funds provided to carry out this part are insufficient to make such services available, States must arrange to make such services available through other Federal programs.

(d) *Petition filing assistance.* (1) States must facilitate the early filing of petitions for a group of workers that the State considers are likely to be eligible for TAA Program benefits.

(2) For purposes of paragraph (d)(1) of this section, ''likely to be eligible'' means the State has a reasonable belief that a certification will be issued for the group of workers based on observations made by State staff; existence of certifications within the same industry, sector, or supply chain; or information or statements from the firm, union, workers, media coverage, or other reports.

(3) States must provide assistance to enable individuals and other entities eligible to file to prepare petitions or applications for program benefits.

(4) Petitions must be filed under paragraph (d)(1) of this section even if the firm, a union, elected officials, or members of the group of workers oppose the filing.

(e) *Providing information after issuance of a certification.* (1) States must inform the State's board on vocational and technical education (also called the eligible agency, as defined in 20 U.S.C. 2302(12)) or the equivalent agency in the State and other public or private agencies, institutions, and employers, as appropriate, of each certification issued under subpart B of this part and of projections, if available, of the needs for training under subpart F of this part as a result of such certification.

(2) Upon receipt of a certification issued under subpart B of this part by the Department, the State must provide a written notice through the mail, of the benefits available under this part to each worker known to be covered by the certification when the worker becomes partially or totally separated or as soon as possible after the certification is issued if the worker is already partially or totally separated from adversely affected employment. The State must also provide notice to all workers threatened with separation who may be AAIWs. These notices must contain the following information:

(i) The worker group(s) covered by the TAA certification and the article(s) produced or services rendered as specified in the copy of the certification furnished to the State;

(ii) The name and the address or location of workers' firm;

(iii) The impact, certification, and expiration dates in the certification document.

(iv) A summary of benefits and services available to the workers;

(v) An explanation of how, when, and where the workers may apply for TAA Program benefits and services;

(vi) The training enrollment deadlines (set forth in § 618.725) for TRA qualification;

(vii) Whom to contact to get additional information on the certification; and

(viii) A Babel notice (a short notice in multiple languages informing the reader that the communication contains vital information and explaining how to access language services to have the contents of the communication provided in other languages).

(3) In order to identify these workers, the State must obtain from the firm, or another reliable source, the names and addresses of all workers who were partially or totally separated from adversely affected employment before the agency received the certification, and of all workers who are thereafter partially or totally separated or threatened with separation within the certification period. Provision of this information may be compelled under the subpoena provisions at § 618.812.

(4) Upon receipt of a copy of a certification issued by the Department affecting workers in a State, the State must publish a notice of the certification in a newspaper of general circulation in areas in which such workers reside. The published notice must include the same information identified in paragraphs (e)(2)(i) through (viii) of this section. The notice may be filed in a print version of the newspaper, or in the online or digital version of the newspaper if it can be reasonably expected to reach the interested parties.

(5) Upon receipt of a copy of a certification issued by the Department, the State must perform outreach to, intake of, and orientation for trade-affected workers covered by the certification with respect to assistance and benefits available under this part.

(6) In addition to the mailed written notice under paragraph (e)(2) of this section, States must also give notice to each worker by at least one method of modern electronic communication reasonably calculated to reach each worker. For example, States may give notice via email to a worker with a known email address, or by text to a worker with a known mobile phone number.

(7) States may also use other modern methods of communication, such as websites and social media, to reach members of certified worker groups.

(f) *Specific benefit assistance to workers.* States must:

(1) Advise each trade-affected worker, as soon as practicable after the worker is separated from adversely affected employment or, if later, after a certification is issued, or upon notice of the worker's threatened status, of the benefits and services available under this part, including the qualifying requirements, procedures, and deadlines for applying for such benefits and services.

(2) Perform an intake interview for each trade-affected worker (unless the worker declines the interview) as soon as practicable after the worker is separated from adversely affected employment, after a certification is issued, or upon notice of the worker's threatened status. The interview must be scheduled in time for the worker to meet the training enrollment deadline set forth in proposed § 618.725(a). During the interview, States must provide information about all of the benefits available under this part.

§ 618.820 Determinations of eligibility; notices to individuals.

(a) *Determinations on initial applications.* The State whose State law is the applicable State law must, upon the filing of an initial application by an individual, promptly determine the individual's eligibility for TAA Program benefits under this part and may accept for such purposes information and findings supplied by another State.

(b) *Determinations on subsequent applications.* The State must, upon the filing of an application for payment of TRA, RTAA, subsistence and transportation, job search allowance, or relocation allowance, promptly determine whether the individual is eligible for such payment and, if eligible, the amount of such payment.

(c) *Redeterminations.* The provision for redeterminations under the applicable State law applies to determinations of eligibility for any benefit under this part.

(d) *Use of State law.* In making determinations or redeterminations under this section, or in reviewing such determinations or redeterminations under § 618.820, a State must apply the regulations in this part. As to matters committed by this part to be decided under the applicable State law, a CSA, a hearing officer, or a State court must apply the applicable State law and regulations thereunder, including the procedural requirements of the applicable State law or regulations, except that no provision of State law or State regulations on good cause for waiver of any time limit, or for late filing of any claim, will apply to any time limitation referred to or specified in this part, unless such State law or regulation is made applicable by a specific provision of this part. However, States must follow the good cause provision at § 618.730.

(e) *Notices to individuals.* The State must notify individuals in writing of any determination or redetermination of eligibility to TAA Program benefits. Each determination or redetermination must inform the individual of the reason for the determination or redetermination and of the right to reconsideration or appeal in the same manner as determinations of entitlement to UI are subject to redetermination or appeal under the applicable State law.

(f) *Promptness.* States must make full payment of TAA Program benefits when due with the greatest promptness that is administratively feasible.

(g) *Procedure.* Except where otherwise required by the Act or this part, the procedures for making and furnishing determinations, the promptness standards, and written notices of determinations to individuals, must be consistent with the Department's ''Standard for Claim Determinations— Separation Information,'' Employment Security Manual, part V, sections 6010 through 6015 (appendix B of this part).

(h) *Successor-in-interest.* (1) States are authorized to determine whether a firm is a successor-in-interest to a firm named as the employer of a worker group on a determination issued under subpart B of this part.

(2) The factors to be used to determine whether or not there is a successor-in-interest are established in § 618.110.

(3) If, after reviewing the successor-in-interest factors, the State believes that a denial of benefits is warranted, the State must file a new petition requesting an amendment to the certification under § 618.250.

§ 618.824 Liable State and agent State responsibilities.

(a) *Liable State.* The liable State, as defined in § 618.110, is responsible for:

(1) Making all determinations, redeterminations, and decisions on appeals on all claims for program benefits under this part, including job search and relocation allowances under subpart D of this part; RTAA under subpart E of this part; training under subpart F of this part; subsistence and transportation payments under subpart F of this part; Basic, Additional, and Completion TRA under subpart G of this part; and waivers and revocations of waivers under subpart G of this part;

(2) Providing workers with general program information and assistance under § 618.816;

(3)(i) Providing rapid response assistance and appropriate career services, as described under section 134 of WIOA, to the group of workers in the State covered by the petition upon

receiving notice of any such workers for whom a petition is filed.

(ii) This includes making career services authorized under other Federal laws available to the workers covered by the petition to the extent authorized under such laws.

(iii) In certain situations, based on the residency of the group of workers, it may be appropriate for agent States to also be involved in the provision of these services, but in all instances the liable State must be ultimately responsible for ensuring the provision of these services;

(4) Providing information and assistance to trade-affected workers under § 618.816(c) (providing reemployment services), (e) (providing information after issuance of a certification), and (f) (specific benefit assistance to workers) upon receiving a certification issued by the Department with respect to affected workers at a firm or appropriate subdivision in the State;

(5) Providing a list of eligible TAA recipients and eligible RTAA recipients, for HCTC purposes, to the Internal Revenue Service if HCTC is available; and

(6) Assisting in other activities and functions required by the Governor-Secretary Agreement at § 618.804, including assisting the Department in the review of petitions by verifying such information and providing such other assistance as the Department may request.

(b) *Agent State.* The agent State, as defined in § 618.110, is responsible for:

(1) Providing interstate claimants with general program information and assistance under § 618.816(a) and petition filing assistance under § 618.816(d);

(2) Cooperating fully with and assisting the liable State in carrying out its responsibilities, activities, and functions, including the provision of rapid response and appropriate career services, as needed;

(3) Cooperating with the liable State in taking applications and claims for TAA Program benefits under this part;

(4) Providing employment and case management services, as described in subpart C of this part, to trade-affected workers covered by a certification issued by the Department under this part;

(5) Cooperating with the liable State by providing information that the liable State needs for it to issue determinations, redeterminations, and decisions on appeals on all claims for program benefits under this part, as described in paragraph (a)(1) of this section;

(6) Securing, and paying the cost of, any approved training under subpart F of this part, and payment of subsistence and transportation under subpart F of this part, according to determinations issued by the liable State;

(7) Paying costs under subpart D of this part for job search and relocation allowances; and

(8) Assisting in other activities and functions required by the Agreement under § 618.804, including assisting in the review of petitions by verifying information and providing such other assistance as the Department may request.

(c) *Responsibilities under this section.* In most instances, the liable State and agent State will be the same State and is responsible for all of the activities and functions described in paragraphs (a) and (b) of this section.

§ 618.828 Appeals and hearings.

(a) *Applicable State law.* Except as provided in paragraph (b) of this section, a determination or redetermination under this part (other than a determination on the eligibility of a group of workers under subpart B of this part, which is subject to review by the USCIT) is subject to review in the same manner and to the same extent as determinations and redeterminations under the applicable State law, and only in that manner and to that extent. Proceedings for review of a determination or redetermination may be consolidated or joined with proceedings for review of other determinations or redeterminations under the applicable State law where convenient or necessary. The right of appeal and opportunity for fair hearing for these proceedings must be consistent with section 303(a)(1) and (3) of SSA (42 U.S.C. 503(a)(1) and (3)).

(b) *Allegations of discrimination.* Complaints alleging that a determination or redetermination under this part violates applicable Federal nondiscrimination laws administered by the U.S. Department of Labor must be handled in accordance with the procedures of 29 CFR parts 31, 32, 35, 36, and 38, as applicable, and as provided in § 618.894 (nondiscrimination and equal opportunity requirements).

(c) *Appeals promptness.* Appeals under paragraph (a) of this section must be decided with a degree of promptness meeting the Department's ''Standard for Appeals Promptness—Unemployment Compensation'' (20 CFR part 650). Any provisions of the applicable State law for advancement or priority of UI cases on judicial calendars, or other provisions intended to provide for prompt payment of UI when due, must apply equally to proceedings involving eligibility for TAA Program benefits and services under this part.

(d) *Retroactivity.* In the case of a redetermination or decision reversing a training denial, the redetermination or decision must be given effect retroactively to the date of issuance of the determination that was subsequently reversed. However, no costs of training may be paid unless such costs actually were incurred for training in which the individual participated. In addition, if a TRA application was filed and denied as a result of the training denial, TRA may only be paid with respect to any week during which the individual was actually participating in the training.

§ 618.832 Overpayments; penalties for fraud.

(a) *Determinations and repayment.* (1) If a State, the Department, or a court of competent jurisdiction determines that any person has received any payment under this part to which the person was not entitled, including a payment referred to in paragraph (b) of this section, such person is required to repay such amount to the State or the Department, as appropriate, except that the State or the Department must waive such repayment if such State or the Department determines that:

(i) The payment was made without fault on the part of such person; and

(ii) Requiring such repayment would cause a financial hardship for the person (or the person's household, if applicable).

(2) States must provide persons determined to have received TAA overpayments a reasonable opportunity to demonstrate their eligibility for waiver under the criteria in paragraphs (a)(1)(i) and (ii) of this section.

(3) A financial hardship exists if recovery of the overpayment would result in the person's (or the person's household's) loss of or inability to pay for ordinary and necessary living expenses. This determination must take into account the income and resources (including liquid financial resources) reasonably available to the person (and the person's household).

(4) Fault exists for purposes of paragraph (a)(1)(i) of this section if any of the following criteria are met:

(i) Whether a material statement or representation was made by the person or individual in connection with the application for TAA that resulted in the overpayment, and whether the person knew or should have known that the statement or representation was inaccurate;

(ii) Whether the person failed or caused another to fail to disclose a material fact in connection with an application for TAA that resulted in the overpayment, and whether the person knew or should have known that the fact was material;

(iii) Whether the person knew or should have known that the person or individual was not entitled to the TAA payment;

(iv) Whether, for any other reason, the overpayment resulted directly or indirectly, and partially or totally, from any act or omission of the person or of which the person or individual had knowledge, and that was erroneous or inaccurate or otherwise wrong; or

(v) Whether there has been a determination of fraud under paragraph (b) of this section.

(b) *False representation or nondisclosure of material fact.* In addition to any other penalty provided by law, a person will be permanently ineligible for any further payments under this part if a State, the Department, or a court of competent jurisdiction determines that:

(1) Such person:

(i) Knowingly made, or caused another to make, a false statement or representation of a material fact; or

(ii) Knowingly failed, or caused another to fail, to disclose a material fact; and

(2) As a result of such false statement or representation, or of such nondisclosure, such person has received any payment under this part to which the person was not entitled.

(c) *Notice of determination, fair hearing, and finality.* Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under paragraph (a)(1) of this section by the State or the Department, as appropriate, has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the person concerned, and the determination has become final.

(d) *Training, job search and relocation allowances, and RTAA.* (1) If a trade-affected worker fails, with good cause, to complete training, a job search, or a relocation, any payment or portion of a payment made under this part to such person or individual properly and necessarily expended in attempting to complete such training, job search, or relocation is not an overpayment.

(2) If a trade-affected worker fails, without good cause, to complete training, a job search, or a relocation, then the portion of a payment for the noncompleted component of a benefit is an overpayment. Costs for the completed portions of the training program, job search, or relocation are not an overpayment.

(3) For purposes of this paragraph (d), good cause exists if the worker acted diligently yet was unable to complete training, a job search, or relocation because of exigent circumstances. The State must determine good cause on a worker-by-worker basis.

(4) An overpayment established under this paragraph (d) must be recovered or waived as provided in this section.

(5) For RTAA, an individual meets the ''earns not more than $50,000 each year in wages from reemployment'' requirement in section 246 of the Act for a given month if the monthly determination of annualized wages is accurate and complete at the time it is made. Payments derived from the annualized wage projection based on complete and accurate information at the time are valid payments that the individual was entitled to and are not overpayments.

(e) *Overpayment recovery of TAA Program funds by offset.* Unless an overpayment is otherwise recovered or is waived, the State–

(1) Must, subject to the limitation in paragraph (e)(3) of this section, recover the overpayment by deduction from any sums payable to such person under:

(i) This part;

(ii) Any Federal UI law administered by the State; or

(iii) Any other Federal law administered by the State that provides for the payment of unemployment assistance or an allowance with respect to unemployment.

(2) Must recover the overpayment from UI payable to such person under the applicable State law.

(3) Must not allow any single deduction under this paragraph (e) to exceed 50 percent of the amount otherwise payable to the person; except that if the applicable State law provides for an overpayment recovery deduction that is less than 50 percent of the amount otherwise payable, such recovery must be equal to that lesser percentage.

(f) *Fraud detection and prevention.* State procedures for the detection and prevention of fraudulent overpayments of TAA benefits must be, at a minimum, the same as the procedures adopted by the State with respect to State unemployment compensation, and consistent with the Department's ''Standard for Fraud and Overpayment Detection,'' Employment Security Manual, part V, sections 7510 through 7515 (appendix C to this part).

(g) *Person.* For purposes of this section and § 618.836 (recovery of debts due the United States or others by TAA offset), a person includes, in addition to a trade-affected worker or other individual, any employer or other entity or organization as well as the officers and officials thereof, including any training provider as well as the officers and officials thereof, who may bear individual responsibility for the overpayment.

(h) *Criminal penalties.* (1) Any person who makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact under the circumstances described in paragraph (h)(1)(i) or (ii) of this section, must be imprisoned for not more than 1 year, fined under title 18, United States Code, or both.

(i) For the purpose of obtaining or increasing for that person or for any other person any payment authorized to be furnished under the Act or pursuant to a Governor-Secretary Agreement under section 239 of the Act; or

(ii) When providing information during an investigation of a petition under section 221 of the Act.

(2) Whenever a violation under paragraph (h)(1) of this section is suspected, the State or the Department must refer the conduct to the U.S. Department of Labor Office of the Inspector General.

§ 618.836 Recovery of debts due the United States or to others by Trade Adjustment Assistance offset.

(a) *Debt due the United States.* Notwithstanding any other provision of this part, the State must apply TAA benefits, payable under this part to a person (as described in § 618.832(g)), for the recovery by offset of any debt due the United States from the person.

(b) *Debt due to others.* The State must not apply TAA Program benefits for the payment of any debt of any person to any State or any other entity or person, except for TRA and RTAA benefits as required by Federal UI law.

§ 618.840 Uniform interpretation and application of this part.

(a) *First rule of construction.* The implementing regulations in this part will be construed liberally to carry out the purposes of the Act.

(b) *Second rule of construction.* The implementing regulations in this part will be construed to assure, insofar as possible, the uniform interpretation and application of the Act and this part throughout the United States.

(c) *Effectuating purposes and rules of construction.* (1) To effectuate the purposes of the Act and this part and to

assure uniform interpretation and application of the Act and this part throughout the United States:

(i) A State must, upon request, forward to the Department, not later than 10 days from the date of the request, a copy of any administrative ruling on an individual's eligibility to TAA benefits under this part.

(ii) Notwithstanding paragraph (c)(1)(i) of this section, a State must forward to the Department a copy of any determination or redetermination on an individual's eligibility to TAA benefits under this part appealed to the State's highest UI administrative appeals authority.

(iii) A State must forward to the Department a copy of notice of the institution of a State or Federal court proceeding and any State or Federal court ruling on an individual's eligibility to TAA Program benefits under this part, within 10 days of the notice or ruling.

(2) If the Department concludes that a determination, redetermination, or decision is inconsistent with the Department's interpretation of the Act or this part, the Department may at any time notify the State of the Department's view. Thereafter, the State must issue a redetermination or appeal if possible and must not follow such determination, redetermination, or decision as a precedent; and, in any subsequent proceedings that involve such determination, redetermination, or decision, or wherein such determination, redetermination, or decision is cited as precedent or otherwise relied upon, the State must inform the claims deputy or hearing officer or court of the Department's view and must make all reasonable efforts, including appeal or other proceedings in an appropriate forum, to obtain modification, limitation, or overruling of the determination, redetermination, or decision.

(3) If the Department concludes that a determination, redetermination, or decision is patently and flagrantly violates of the Act or this part, the Department may at any time notify the State of the Department's view. If the determination, redetermination, or decision in question denies TAA to an individual, the State must follow the steps outlined in paragraph (c)(2) of this section. If the determination, redetermination, or decision in question awards TAA to an individual, the benefits are ''due'' within the meaning of section 303(a)(1) of SSA (42 U.S.C. 503(a)(1)), and therefore must be paid promptly to the individual. However, the State must take the steps outlined in paragraph (c)(2) of this section, and payments to the individual may be temporarily delayed if redetermination or appeal action is taken not more than 1 business day following the day on which the first payment otherwise would be issued to the individual; and the redetermination action is taken or appeal is filed to obtain a reversal of the award of TAA and a ruling consistent with the Department's view; and the redetermination action or appeal seeks an expedited redetermination or appeal within not more than 2 weeks after the redetermination action is taken. If redetermination action is not taken or appeal is not filed within the above time limit, or a redetermination or decision is not obtained within the 2-week limit, or any redetermination or decision or order is issued that affirms the determination, redetermination, or decision awarding TAA or allows it to stand in whole or in part, the benefits awarded must be paid promptly to the individual.

(4)(i) If any determination, redetermination, or decision, referred to in paragraph (c)(2) or (3) of this section, is treated as a precedent for any future application for TAA, the Secretary will decide whether the Agreement with the State entered into under the Act and this part will be terminated and § 618.804(e) applied.

(ii) In the case of any determination, redetermination, or decision that is not legally warranted under the Act or this part, including any determination, redetermination, or decision referred to in paragraph (c)(2) or (3) of this section, the Secretary will decide whether the State must restore the funds of the United States for any sums paid under such a determination, redetermination, or decision, and whether, in the absence of such restoration, the Agreement with the State will be terminated and § 618.804(e) applied and whether other action must be taken to recover such sums for the United States.

(5) A State may request, in writing, within 10 calendar days of receiving a notice under paragraph (c)(2) or (3) of this section, reconsideration of the notice. The State will have an opportunity to present its views and arguments if desired. The State must submit such a request to the Secretary and may include views and arguments on the matters the Secretary is to decide under paragraph (c)(3) of this section. The Secretary must respond to the State's reconsideration request within 30 calendar days of receiving the request.

(6) Concurrence of the Department with a determination, redetermination, or decision must not be presumed from the absence of a notice issued pursuant to this section.

(d) *Payment when due.* If the determination, redetermination, or decision in question awards TAA Program benefits to an individual, the benefits are ''due'' within the meaning of section 303(a)(1) of SSA (42 U.S.C. 503(a)(1)), and therefore must be paid promptly to the individual. Payments to the individual may be temporarily delayed if a redetermination is issued not more than 1 business day following the day on which the first payment otherwise would be issued to the individual; and the State seeks an expedited appeal decision within not more than 2 calendar weeks after the appeal is filed. If the redetermination is not issued or the appeal is not filed within the time limit in the preceding sentence, or the decision on appeal is not obtained within the 2-calendar week limit in the preceding sentence, or any decision on appeal is issued that affirms the determination, redetermination, or decision awarding benefits under this part or allows it to stand in whole or in part, the benefits awarded must be paid promptly to the individual.

§ 618.844 Inviolate rights to Trade Adjustment Assistance or Reemployment Trade Adjustment Assistance.

(a) Except as specifically provided in this part, the rights of individuals to TAA Program benefits will be protected in the same manner and to the same extent as the rights of persons to UI are protected under the applicable State law. Such measures must include protection of applicants for TAA Program benefits from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment of their rights to TAA Program benefits, except as provided in §§ 618.832 (overpayments; penalties for fraud) and 618.836 (recovery of debts due the United States or others by TAA offset).

(b) In the same manner and to the same extent as the rights of persons to UI are protected under the applicable State law, individuals must be protected from discrimination and obstruction in regard to the right to seek, apply for, and receive any TAA Program benefit.

§ 618.848 Veterans' priority of service.

The State must give priority for approval and funding of TAA Program benefits (including training, where the approval of training criteria are met) to a trade-affected worker meeting the veterans' priority of service criteria established under 38 U.S.C. 4215.

§ 618.852 Recordkeeping and disclosure of information requirements.

(a) *Recordkeeping.* (1) Each State must make and maintain such records pertaining to the administration of the

Act as the Department requires and must make all such records available for inspection, examination, and audit by such Federal officials as the Department may designate or as may be required by law.

(2)(i) States must maintain records that contain any information that the Department determines to be appropriate in support of any reports that the Department may require, including those reports specified in §§ 618.860(f) (general fiscal and administrative requirements and cost classification) and 618.864(e) (TAA Program performance).

(ii) States must maintain records as required by 2 CFR 200.333 for 3 years, or as indicated at 2 CFR 200.333(a) through (f).

(3) States must comply with the records requirements established in the Uniform Guidance at 2 CFR 200.333 through 200.337.

(4) States must document that they provided or offered the employment and case management services described in subpart C of this part to all trade-affected workers, either in a paper-based or electronic case management system. States must make these systems available for review upon request by the Department. Additionally, the case management file of each participant must demonstrate that the State notified each worker of the training enrollment deadlines set forth in proposed § 618.725(a).

(b) *Disclosure of information.* (1) Information in records maintained by a State in administering the Act must be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to UI and the entitlement of individuals thereto may be disclosed under the applicable State law. Such information must not, however, be disclosed to an employer or any other person except to the extent necessary to obtain information from the employer or other person for the purposes of this part. The provision in this paragraph (b)(1) on the confidentiality of information maintained in the administration of the Act does not apply in the following circumstances:

(i) Disclosures to the Department;

(ii) For the purposes of § 618.832 or paragraph (a) of this section;

(iii) For providing information, reports, and studies required by § 618.856 (information, reports, and studies); or

(iv) Where nondisclosure would be inconsistent with the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act of 1974 (5 U.S.C. 552a).

(2) Where a State obtains confidential business information as part of assisting in an investigation under subpart B of this part, it must protect that information as required under that subpart.

(c) *Format of records and forms.* Forms and records used and maintained by States in the administration of this part may exist in paper or electronic form or a combination thereof. Regardless of the medium, these records must be available and accessible as required under paragraph (a)(1) of this section for oversight purposes.

(d) *Electronic signatures.* Electronic signatures are allowed where such use is in accordance with the Electronic Signatures in Global and National Commerce Act (Pub. L. 106–229).

§ 618.856 Information, reports, and studies.

A State must furnish to the Department such information and reports and conduct such studies as the Department determines are necessary or appropriate for carrying out the purposes of the Act and this part.

§ 618.860 General fiscal and administrative requirements and cost classification.

(a) *Uniform fiscal and administrative requirements.* (1) Each State receiving funds allocated for the TAA Program from the Department as an agent of the United States, must administer the TAA Program in accordance with the Uniform Guidance at 2 CFR part 200 and 2 CFR part 2900 and with the funding agreement.

(2) A State may expend funds awarded to it during a Federal fiscal year to carry out TAA Program activities under sections 235 through 238 of the Act during that Federal fiscal year and the succeeding 2 Federal fiscal years.

(3) Equipment, as described in 2 CFR 200.33 and computing devices, as described in 2 CFR 200.20, includes equipment acquired with TAA funds under both current and prior Agreements.

(4) The addition method, described at 2 CFR 200.307, must be used for all program income earned under TAA grants. When the cost of generating program income has been charged to such grant, the gross amount earned must be added to such grant. However, when these costs have not been charged to such grant, the cost of generating program income must be subtracted from the amount earned to establish the net amount of program income available for use under such grant.

(b) *Administrative costs.* (1) The administrative cost limit for the fiscal year program funding allocation for training, job search assistance, and relocation allowances is included in the TAA Program Annual Funding Agreement, with which States must comply.

(2) For purposes of the TAA Program, the costs of administration are the costs associated with performing the overall general administrative functions of the TAA Program in paragraphs (b)(2)(i) through (xviii) of this section and the coordination thereof within the American Job Center network established under WIOA:

(i) Accounting, budgeting, financial and cash management functions;

(ii) Procurement and purchasing functions;

(iii) Property management functions;

(iv) Personnel management functions;

(v) Payroll functions;

(vi) Coordinating the resolution of findings arising from audits, reviews, investigations, and incident reports;

(vii) Audit functions;

(viii) General legal services functions;

(ix) Developing systems and procedures, including information systems, required for these administrative functions;

(x) Processing applications for benefits under the Act;

(xi) Rendering and issuing eligibility determinations under the Act;

(xii) Performing oversight and monitoring responsibilities related to administrative functions;

(xiii) Costs of goods and services required for administrative functions of the program, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space;

(xiv) Travel costs incurred for official business in carrying out administrative activities or the overall management of the TAA Program;

(xv) Costs of information systems related to administrative functions (*i.e.,* personnel, procurement, purchasing, property management, accounting, and payroll systems), including the purchase, systems development, and operating costs of such systems;

(xvi) Processing waivers of training requirements under subpart G of this part;

(xvii) Collecting, validating, and reporting data required under the Act; and

(xviii) Providing RTAA under subpart E of this part.

(3) Awards to subrecipients or contractors that are solely for the performance of administrative functions constitute administrative costs.

(4) Personnel and related nonpersonnel costs of staff that perform

both administrative functions specified in paragraph (b)(2) of this section and programmatic services or activities must be allocated as administrative or program costs to the benefitting cost objectives/categories based on documented distributions of actual time worked or other equitable cost allocation methods.

(5) Costs of the information systems in paragraphs (b)(5)(i) through (iii) of this section, including the purchase, systems development, and operational costs, are charged to the program category:

(i) Tracking or monitoring of participant and performance information, including employment and case management services and activities;

(ii) Employment statistics information, including job listing information, job skills information, and demand occupation information. States must leverage existing resources provided under other Federal programs; and

(iii) Maintenance and enhancement of the systems specified in paragraphs (b)(5)(i) and (ii) of this section.

(6) Wherever possible, States must make efforts to streamline the administrative activities and services listed in this section by minimizing duplication and effectively using information technology to improve services and leveraging resources across programs.

(c) *Prior approval.* (1) Equipment purchases under the TAA Program are subject to the provisions at 2 CFR 200.313. In compliance with 2 CFR 2900.16, prior approval is hereby provided for equipment purchases under the TAA Program.

(2) As provided in 2 CFR 200.439(b)(1), the Department retains the prior approval requirement related to capital expenditures (2 CFR 200.13) and for capital assets (2 CFR 200.12) other than equipment.

(d) *Audit and oversight requirements.* (1) All States, local governments, nonprofit organizations, and for-profit entities that are recipients or subrecipients of TAA Program funds must follow the audit requirements under 2 CFR 200.500 through 200.521 and 2 CFR 2900.20.

(2)(i) *Oversight and monitoring.* Each recipient and subrecipient of funds under the Act must conduct regular oversight and monitoring of its program and those of any subrecipients and contractors, as required under section 239(i) of the Act, as well as under 2 CFR part 200, including 2 CFR 200.328, 200.330, and 200.331, and Department exceptions at 2 CFR part 2900, in order to:

(A) Determine that expenditures have been made against the proper cost categories and within the cost limitations specified in the Act, the regulations in this part, and administrative guidance;

(B) Determine whether there is compliance with other provisions of the Act, the regulations in this part, and administrative guidance;

(C) Assure compliance with 2 CFR part 200 and the Department's exceptions at 2 CFR part 2900; and

(D) Determine compliance with the nondiscrimination, disability, and equal opportunity requirements of section 188 of WIOA, including the Assistive Technology Act of 1998 (29 U.S.C. 3003).

(ii) *Resolution of subrecipient-level findings.* (A) The Governor is responsible for resolving findings that arise from the monitoring reviews, investigations, other Federal monitoring reviews, and audits (including under 2 CFR part 200) of subrecipients awarded funds through the Act.

(B) A State must use the written monitoring and audit resolution, debt collection and appeal procedures that it uses for other Federal grant programs.

(C) If a State does not have such written procedures as described in paragraph (d)(2)(ii)(B) of this section, it must prescribe standards and procedures to govern this grant program.

(D) For subrecipients awarded funds through a recipient of grant funds, the direct recipient of the grant funds must have written monitoring and resolution procedures in place that are consistent with 2 CFR part 200.

(iii) *Resolution of State findings.* (A) The Secretary is responsible for resolving findings that arise from Federal audits, monitoring reviews, investigations, incident reports, and audits under 2 CFR part 200 for direct recipients of Federal awards under the Act.

(B) The Secretary will use the Department's audit resolution process, consistent with 2 CFR part 2900, subpart F.

(C) A final determination issued by a Grant Officer under the process in this paragraph (d)(2)(iii) may be appealed to the DOL Office of Administrative Law Judges under the procedures in 2 CFR 2900.22.

(e) *Government-wide debarment and suspension, and government-wide drug-free workplace requirements.* All TAA Program fund recipients and subrecipients must comply with the Government-wide requirements for debarment and suspension under subparts G and H of 2 CFR part 180 and the Government-wide requirements for a drug-free workplace at 29 CFR part 98.

(f) *Fiscal reporting requirements for States.* (1) In accordance with 2 CFR 200.327 and 2 CFR 2900.14, each State must submit a quarterly financial report to the Department as specified in the reporting instructions approved by OMB.

(2) States must report financial data on an accrual basis, and cumulatively by funding year of appropriation. Financial data may also be required on specific program activities as specified in the reporting instructions as approved by OMB.

(3) If the State's accounting system is not on the accrual basis of accounting, the State must develop accrual information through best estimates based on an analysis of the documentation on hand.

(4) The State must:

(i) Obligate funds on not less than a quarterly basis; and

(ii) Periodically review obligations and, in an appropriate and timely manner, de-obligate funds when a participant drops, completes, or is no longer eligible for training.

(g) *Use of funds.* Of the funds awarded to the States to carry out sections 235 through 238 of the Act for a fiscal year, the State must use:

(1) Not more than 10 percent for the costs of administration, provided in paragraph (b)(2)(i) of this section; and

(2) Not less than 5 percent for employment and case management services under section 235 of the Act.

(h) *Technology.* States must maintain sufficient and effective technology for the purpose of tracking and reporting required participant data, and to provide appropriate services under the TAA Program.

(i) *Designation of resources for Management Information Systems (MIS) development.* States are required to dedicate an appropriate portion of administrative and employment and case management funding under TAA for management information systems development, upgrades, and ongoing maintenance.

§ 618.864 Trade Adjustment Assistance Program performance.

(a) *General rule.* Each State must report to the Department comprehensive performance accountability measures, to consist of:

(1) The primary indicators of performance described in paragraph (b) of this section;

(2) The additional indicators of performance established under paragraph (c) of this section, if any; and

(3) A description of efforts made to improve outcomes for workers under

the TAA Program that promote efficient and effective program performance as provided in this section.

(b) *Primary indicators of performance*—(1) *Primary indicators.* The primary indicators of performance shall consist of:

(i) The percentage and number of workers who received benefits under the TAA Program who are in unsubsidized employment during the second calendar quarter after exit from the program;

(ii) The percentage and number of workers who received benefits under the TAA Program who are in unsubsidized employment during the fourth calendar quarter after exit from the program;

(iii) The median earnings of workers who are in unsubsidized employment during the second quarter after exit from the program;

(iv) The percentage of those participants enrolled in a training program under subpart F (excluding those in OJT and customized training) who attained a recognized postsecondary credential or a secondary school diploma, or its recognized equivalent, during participation in or within 1 year after exit from the program; and

(v) The percentage and number of workers who received benefits under the TAA Program who, during a year while receiving such benefits, are in an education or training program that leads to a recognized postsecondary credential or employment and who are achieving measurable gains in skills toward such a credential or employment.

(2) *Indicator relating to credential attainment.* For purposes of paragraph (b)(1)(iv) of this section, a worker who received benefits under the TAA Program who obtained a secondary school diploma or its recognized equivalent is included in the percentage counted for purposes of paragraph (b)(1)(iv) of this section only if the worker, in addition to obtaining such a diploma or its recognized equivalent, has obtained or retained employment or is in an education or training program leading to a recognized postsecondary credential within 1 year after exit from the program.

(c) *Additional indicators.* The Department and a State may agree upon additional indicators of performance for the TAA Program, as appropriate.

(d) *Use of wage records.* States must, consistent with State law, use quarterly wage record information, as defined in 20 CFR 677.175, in measuring the progress on program performance indicators in paragraphs (b) and (c) of this section.

(1) The use of Social Security numbers from participants and such other information as is necessary to measure the progress of those participants through quarterly wage record information is authorized.

(2) States that participate in data sharing agreements for the purposes of obtaining wage record information may use such data sharing agreements to obtain wage record information for workers who received benefits under the TAA Program.

(3) To the extent that quarterly wage records are not available for a participant, States may use other information as is necessary to measure the progress of the participant.

(e) *Reporting requirements*—(1) *Data required.* States must report TAA Program demographics, performance, and services data, identified in paragraphs (b) and (c) of this section, to the Department on such forms and in such manner as the Department may prescribe.

(2) *Data reliability and validity.* States are required to establish procedures that are consistent with administrative guidance the Department issues to ensure the data States submit are valid and reliable.

(f) *Publication of performance results.* The Department will publish, annually, through electronic means, including posting on the Department's website, the TAA Program performance results of the States.

(g) *Control measures*—(1) *In general.* Each State must implement effective control measures to effectively oversee the operation and administration of the TAA Program and ensure the accurate collection of program data.

(2) *Location.* The control measures must be internal to a system used by the State to collect data.

(3) *Purpose.* States will implement these control measures in order to:

(i) Oversee the operation and administration of the TAA Program under this part;

(ii) Improve the timeliness and verifiability of reported data; and

(iii) Verify the accuracy of reported data, and must require:

(A) Periodic staff training;

(B) Participation in data validation and integrity efforts, as directed by the Department;

(C) Data analysis and monitoring on a quarterly basis to identify inaccurate data input;

(D) Data analysis and monitoring on a quarterly basis to identify missing data; and

(E) Resubmission of required reports upon correcting data the State identifies as a result of paragraphs (g)(3)(iii)(B) through (D) of this section.

(4) *Monitoring program.* In order to ensure the effective and efficient operation of the TAA Program, States must adopt a formal monitoring program designed to review and audit worker files.

(i) The monitoring program must be designed to identify and share best practices, identify and correct deficiencies, and identify and address staff training needs.

(ii) A minimum quarterly random sample of 20 cases must be audited as part of the monitoring program and must include cases from at least 2 certifications issued under subpart B of this part.

(iii) The four quarterly samples within a calendar year must also cover at least four different areas of the State administering the program.

(iv) If circumstances preclude a State from meeting the criteria in paragraphs (g)(4)(ii) and (iii) of this section, the State must contact the appropriate ETA regional office to design a monitoring program that better suits the TAA Program in that State, and make sure it is sufficient to ensure the accuracy and verifiability of such data.

(h) *Data on benefits received, training, outcomes, rapid response activities, and spending.* Data submitted by the States must be sufficient to provide, at a minimum, the information required in section 249B of the Act, including the following information:

(1) The number of workers receiving benefits under the TAA Program;

(2) The number of workers receiving each type of benefit, including employment and case management services, training, job search and relocation allowances, TRA (Basic, Additional, and Completion) and RTAA payments, and, to the extent feasible, the HCTC, if available;

(3) The average time during which such workers receive each type of benefit;

(4) The average number of weeks TRA were paid to workers;

(5) The number of workers who report that they have received benefits under a prior certification in any of the 10 fiscal years preceding the fiscal year for which the data are collected under this section;

(6) The number of workers who received TAA approved training, classified by major types of training, including but not limited to, classroom training, training through distance learning, training leading to an associate's degree, remedial education, prerequisite education, OJT, and customized training;

(7) The number of workers who exited TAA approved training, including who received prelayoff training or part-time training at any time during that training;

(8) The average duration of training and the average duration of training that does not include remedial or prerequisite education;

(9) The number of training waivers granted, classified by type of waiver;

(10) The number of workers who exited training and the average duration of such training;

(11) The number of workers who do not complete training and the average duration of the training such workers completed;

(12) The average cost per worker of receiving TAA approved training;

(13) The percentage of workers who received TAA approved training and obtained unsubsidized employment in a field related to that training;

(14) The age, preprogram educational level, and post-program credential attainment of the workers;

(15) The median earnings of workers during the second calendar quarter after exit from the program, expressed as a percentage of the median earnings of such workers before the calendar quarter in which such workers began receiving benefits under this part;

(16) The sectors in which workers are employed after receiving benefits under this part;

(17) Whether rapid response activities were provided with respect to each petition filed;

(18) The total amount of funds used to pay for TRA by the State; and

(19) The total amount of the TaOA payments to the State.

§ 618.868 Unemployment Insurance.

UI payable to an AAW shall not be denied or reduced for any week by reason of any right to a payment of TAA under the Act and this part.

§ 618.872 Travel under the Trade Adjustment Assistance Program.

(a) TAA Program participants are subject to the FTR at 41 CFR chapters 300 through 304 for all travel paid for with TAA Program funds.

(b) Except for the definition of ''commuting area,'' States may not apply State or local travel policies and restrictions to TAA Program participants receiving reimbursements for travel under the Act.

(c) In instances where the FTR is silent or defers to the Federal agency's travel policies, the State must apply the relevant policies of the Department.

§ 618.876 Verification of eligibility for program benefits.

(a) *Overall program eligibility.* In addition to all other eligibility criteria contained in this part, an individual must also be authorized to work in the United States to receive benefits under the TAA Program. States are required to verify the status of participants who are not a citizen or national of the United States.

(b) *Initial verification.* All States are required, under section 1137(d) of SSA (42 U.S.C. 1320b–7(d)), to initially verify the immigration status of self-reporting aliens who apply for UI through the system designated by the U.S. Customs and Immigration Service (or USCIS), currently the Systematic Alien Verification for Entitlement (or SAVE) program. No further verification is required except as described in paragraph (c) of this section.

(c) *Reverification.* (1) Once a State has verified satisfactory immigration status initially, the State must reverify the worker's immigration status if the documentation provided during initial verification will expire during the period in which that worker is potentially eligible to receive benefits under this subchapter.

(2) The State must conduct such redetermination in a timely manner, using the immigration status verification system described in section 1137(d) of SSA (42 U.S.C. 1320b–7(d)) or by review of other documentation, as described in that provision.

§ 618.884 Special rule with respect to military service.

(a) *In general.* Notwithstanding any other provision of this part, a State may waive any requirement of this part that the States determines is necessary to ensure that an AAW who is a member of a reserve component of the Armed Forces and serves a period of duty described in paragraph (b) of this section is eligible to receive a trade readjustment allowance, training, and other benefits under this part in the same manner and to the same extent as if the worker had not served the period of duty.

(b) *Period of duty described.* An AAW serves a period of duty described in paragraph (a) of this section if, before completing training under section 236 of the Act, the worker:

(1) Serves on active duty for a period of more than 30 days under a call or order to active duty of more than 30 days; or

(2) In the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performs full-time National Guard duty under 32 U.S.C. 502(f) for 30 consecutive days or more when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

§ 618.888 Equitable tolling.

(a) A TAA Program deadline must be equitably tolled when:

(1) An extraordinary circumstance prevented an individual's timely action; and

(2) The individual otherwise acted with diligence.

(b)(1) When an individual fails to take timely action because the State failed to give notice required under this part, that failure is prima facie evidence of an extraordinary circumstance.

(2) If the individual did not receive the required notice, but otherwise received actual notice with sufficient time to take timely action, the lack of receipt of the required notice is not evidence of an extraordinary circumstance.

(c) A TAA Program deadline equitably tolled under this section is tolled for the time period during which the extraordinary circumstance exists. Once that circumstance is resolved, the time period that was tolled begins to run again.

(d) Equitable tolling may extend an otherwise expired TAA Program deadline by no more than 36 months.

§ 618.890 Staffing flexibility.

(a) Staff employed under a merit personnel system as provided in section 303(a)(1) of the Social Security Act must be used for all reviews of benefit determinations under applicable State law.

(b) All determinations on eligibility for TAA Program benefits must be made by State staff, with the exception of the functions in paragraph (a) of this section, which must be made by staff meeting the criteria in paragraph (a) of this section.

(c) All other functions under the TAA Program, not subject to paragraphs (a) and (b) of this section, may be provided under a variety of staffing models.

§ 618.894 Nondiscrimination and equal opportunity requirements.

(a) States and subrecipients of financial assistance under the TAA Program are required to comply with the nondiscrimination and equal opportunity provisions codified in the Department's regulations at 29 CFR parts 31, 32, 35, and 36.

(b) States and subrecipients of financial assistance under the TAA

Program are required to comply with the nondiscrimination and equal opportunity requirements of WIOA section 188 and its implementing regulations at 29 CFR part 38 if the agency or subrecipient:

(1) Operates its TAA programs and activities as part of the one-stop delivery system established under the WIOA; or

(2) Otherwise satisfies the definition of ''recipient'' in 29 CFR 38.4(zz).

(c) Questions about the nondiscrimination requirements cited in this section may be directed to the Director, Civil Rights Center, U.S. Department of Labor, Room N–4123, 200 Constitution Avenue NW, Washington, DC 20210.

(d)(1) This section does not affect the rights and protections (and exceptions thereto) available under any other Federal law or regulation regarding discrimination.

(2) This section does not affect the rights and protections (and exceptions thereto) available under any other State or local law or regulation regarding discrimination, except as provided in paragraph (d)(3) of this section.

(3) No State may discriminate on any basis protected by 29 CFR parts 31, 32, 35, 36, and 38 (and exceptions thereto), as applicable, in determining an individual's eligibility for any of the following:

(i) Receiving aid, benefits, services, training, or employment;

(ii) Participating in any TAA program or activity;

(iii) Being employed by any State; or

(iv) Practicing any occupation or profession.

§ 618.898 Applicable State law.

(a) The applicable State law for an AAW remains the applicable State law for such worker until such worker becomes entitled to UI under the State law of another State (whether or not such worker files a UI claim in that other State).

(b) For purposes of determining the applicable State law for UI entitlement:

(1) A worker is deemed entitled to UI under a State law if such worker satisfies the base period employment and wage qualifying requirements of such State law;

(2) In the case of a combined-wage claim, UI entitlement must be determined under the law of the paying State; and

(3) In case of a Federal UI claim, or a joint State and Federal UI claim, UI entitlement must be determined under the law of the applicable State for such claims.

Subpart I—Allocation of Funds to States for Training and Other Activities

§ 618.900 Annual cap on funds available for Training and Other Activities.

(a) The total amount of funds made available for the costs of carrying out sections 235 through 238 of the Act, referenced here as Training and Other Activities (TaOA), will not exceed the annual cap established under section 236(a)(2)(A) of the Act. For each of Fiscal Years (FYs) 2015 through 2021, this cap is $450,000,000.

(b) Funds obligated during a fiscal year to carry out activities under sections 235 through 238 of the Act may be expended by the State receiving such funds during that fiscal year and the succeeding 2 fiscal years.

§ 618.910 Initial allocation of funds.

(a) *Initial allocation.* In the initial allocation for a fiscal year, the Department will allocate 65 percent of the funds available under section 236(a)(2)(A) of the Act for that fiscal year. The Department will announce the amount of each State's initial allocation of funds, determined in accordance with the requirements of this section, at the beginning of each fiscal year. The Department will determine this initial allocation on the basis of the total funds available under the annual cap for that year, even if the full amount has not been appropriated to the Department at that time.

(b) *Timing of the distribution of the initial allocation.* The Department will, as soon as practical, distribute the initial allocation announced under paragraph (a) of this section. However, the Department will not distribute the full amount of the initial allocation until it receives the entire fiscal year's appropriation of funds for TaOA. If the full year's appropriated amount for TaOA is less than the annual cap on funds available for TaOA, then the Department will distribute 65 percent of the amount appropriated.

(c) *Hold harmless provision.* Except as provided in paragraph (d) of this section, or required by the appropriation, in no case will the amount of the initial allocation to a State in a fiscal year be less than 25 percent of the initial allocation to that State in the preceding fiscal year.

(d) *Minimum initial allocation.* If a State has an adjusted initial allocation of less than $100,000, as calculated in accordance with paragraph (e)(2) of this section, that State will not receive an initial allocation, and the funds that otherwise would have been allocated to that State instead will be allocated among the other States in accordance with this section. A State that does not receive an initial allocation may apply to the Department under § 618.920(b) for reserve funds to obtain funding for TaOA.

(e) *Process of determining initial allocation.* (1) The Department will first apply the factors described in paragraph (f) of this section to determine an unadjusted initial allocation for each State.

(2) The Department will then apply the hold harmless provision of paragraph (c) of this section to the unadjusted initial allocation, as follows:

(i) A State whose unadjusted initial allocation is less than its hold harmless amount but is $100,000 or more will have its initial allocation adjusted up to its hold harmless amount in accordance with paragraph (c) of this section. If a State's unadjusted allocation is less than $100,000, the State will receive no initial allocation, in accordance with paragraph (d) of this section, and those funds will be distributed among the other States as provided in paragraph (e)(3) of this section.

(ii) A State whose unadjusted initial allocation is no less than its hold harmless threshold will receive its hold harmless amount and, in addition, will receive an adjustment equal to the State's share of the remaining initial allocation funds, as provided in paragraph (e)(3) of this section.

(3) Any initial allocation funds remaining after the adjustments to initial allocations are applied as described in paragraph (e)(2)(i) of this section will be distributed among the States with unadjusted initial allocations that were no less than their respective hold harmless amounts, as described in paragraph (e)(2)(ii) of this section (the remaining States). The distribution of the remaining initial allocation funds among the remaining States will be made by using the formula in paragraph (f) of this section. This recalculation will disregard States receiving only their hold harmless amount under paragraph (e)(2)(i) of this section, so that the combined percentages of the remaining States total 100 percent.

(f) *Initial allocation factors.* (1) In determining how to make the initial allocation of funds, the Department will apply, as provided in paragraph (f)(3) of this section, the following factors with respect to each State:

(i) Factor 1: The trend in the number of trade-affected workers covered by certifications during the most recent 4 consecutive calendar quarters for which data are available. The trend will be established by assigning a greater weight

to the most recent quarters, giving those quarters a larger share of the factor;

(ii) Factor 2: The trend in the number of workers participating in training during the most recent 4 consecutive calendar quarters for which data are available. The trend will be established by assigning a greater weight to the most recent quarters, giving those quarters a larger share of the factor;

(iii) Factor 3: The number of workers estimated to be participating in training during the fiscal year. The estimate will be calculated by dividing the weighted average number of workers in training for the State determined in paragraph (f)(1)(ii) of this section by the sum of the weighted averages for all States and multiplying the resulting ratio by the projected national average of workers in training for the fiscal year, using the projection methodology underlying the Department's most recent budget submission or update; and

(iv) Factor 4: The amount of funding estimated to be necessary to provide TAA approved training to such workers during the fiscal year. The estimate will be calculated by multiplying the estimated number of training participants in paragraph (f)(1)(iii) of this section by the average training cost for the State. The average training cost will be calculated by dividing total training expenditures for the most recent 4 quarters by the average number of training participants for the same time period.

(2) The four factors listed in paragraphs (f)(1)(i) through (iv) of this section are given equal weight.

(3) For each of the factors in paragraphs (f)(1)(i) through (iv) of this section, the Department will determine the national total and each State's percentage of the national total. Based on a State's percentage of each of these factors, the Department will determine the percentage that the State will receive of the total amount available for initial allocation for that fiscal year. The percentages of the initial allocation amount for all States combined will total 100 percent of the total amount of the initial allocation.

§ 618.920 Reserve fund distributions.

(a) The 35 percent of the TaOA funds for a fiscal year that remains after the initial allocation will be held by the Department as a reserve. Reserve funds will be used, as needed, for additional distributions to States during the remainder of the fiscal year, including distributions to those States that did not receive an initial allocation. The amount of any distributions of reserve funds will be determined by the Department within the time frame described in § 618.930, as appropriate, considering the information provided in reserve fund requests submitted by States as described in paragraph (b) of this section and the level of reserve funds available.

(b) A State requesting reserve funds must demonstrate that:

(1) At least 50 percent of its TaOA funds from the current year (if any were received) and previous fiscal years have been expended; or

(2) The State needs additional TaOA funds to meet demands for services due to unusual and unexpected events, which includes an unexpected increase in the number of trade-affected workers eligible for TaOA.

(c) A State requesting reserve funds under paragraph (b) of this section also must provide a documented estimate of funding needs through the end of the fiscal year. That estimate must be based on an analysis that includes at least the following:

(1) The average cost of training in the State;

(2) The expected number of participants in training through the end of the fiscal year; and

(3) The remaining TaOA funds the State has available.

§ 618.930 Second distribution.

The Department will distribute at least 90 percent of the total TaOA funds (including § 618.920 reserve funds) for a fiscal year to the States no later than July 15 of that fiscal year. The Department will first fund all acceptable requests for reserve funds filed before June 1. After these requests are satisfied, any funds remaining will be distributed to those States that received an initial allocation in an amount greater than their hold harmless amount, using the methodology described in § 618.910. Any funds remaining after the second distribution will be available for allotment under § 618.920.

§ 618.940 Insufficient funds.

If, during a fiscal year, the Department estimates that the amount of funds necessary to provide TaOA will exceed the annual cap under § 618.900, the Department will decide how the available funds that have not been distributed at the time of the estimate will be allocated among the States for the remainder of the fiscal year, and will communicate this decision to States through administrative guidance.

§ 618.950 Recapture and reallocation of Training and Other Activities funds.

(a) The Department may:

(1) Recapture funds that were allocated to any State to carry out sections 235 through 238 of the Act and that remain unobligated by the State during the second or third fiscal year after the fiscal year in which the funds were provided to the State; and

(2) Reallocate recaptured funds to States to carry out sections 235 through 238 of the Act, in accordance with procedures established in this section.

(b) The Department may recapture and reallocate funds as authorized by paragraph (a) of this section if the Department determines:

(1) There are, or are projected to be, insufficient funds in a State or States to carry out the activities described in sections 235 through 238 of the Act for a fiscal year; or

(2) The recapture and reallocation of funds would likely promote the more efficient and effective use of funds among States to carry out the activities described in sections 235 through 238 of the Act for a fiscal year.

(c) If the Department makes a determination described in paragraph (b)(1) of this section for a fiscal year, the Department may recapture funds, to the extent needed, from one or more of the State or States that have the highest percentage of unobligated or unexpended funds from the second or third fiscal year after the fiscal year in which the funds initially were allocated to such States, as determined by the Department, and reallocate those funds to the States with, or projected to have, insufficient funds. In making the determination that a State has or is projected to have insufficient funds to carry out the activities described in sections 235 through 238 of the Act for a fiscal year, the Department may consider a request submitted by the State in accordance with information required under § 618.920(b) or base such determination on other information the Department determines is appropriate.

(d) If the Department makes a determination described in paragraph (b)(2) of this section for a fiscal year, the Department may recapture funds from the State or States that have the highest percentage of unobligated or unexpended funds from the second or third fiscal year after the fiscal year in which the funds were initially allocated to such States, as determined by the Department, and reallocate those funds to:

(1) The States with the lowest percentage of unobligated or unexpended funds from the second or third fiscal year after the fiscal year in which the funds initially were allocated to such States as determined by the Department, based on such additional factor or factors as the Department determines is or are appropriate; or

(2) All States from which funds are not being recaptured, in accordance with the formula factors described in § 618.910(f), relating to the initial distribution of funds.

(e) If the Department determines to recapture and reallocate funds pursuant to this section, an administrative notice must be issued to the States describing the methodology used and the amounts to be recaptured from and reallocated to each affected State, not less than 15 business days in advance of the recapture of funds.

(f) The reallocation of funds under this section does not extend the period of availability for the expenditure of those funds, which expenditure period remains 2 fiscal years after the fiscal year in which the funds were initially allocated by the Department to the State from which the funds are recaptured.

PART 90—[REMOVED AND RESERVED]

■ 5. Remove and reserve 29 CFR part 90.

Signed at Washington, DC

John P. Pallasch,

Assistant Secretary for Employment and Training, Labor.

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